

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SCOTT EXCAVATING, INC. – ALLEGED	)	CASE NO.
VIOLATION OF UNDERGROUND FACILITY	)	2019-00158
DAMAGE PREVENTION ACT	)	

ORDER

Pursuant to KRS 278.495(2), the Kentucky Public Service Commission (Commission) has jurisdiction to regulate the safety of natural gas facilities in Kentucky and to enforce minimum federal pipeline safety standards. Under the Kentucky Underground Facility Damage Prevention Act (Act), KRS 367.4901 through KRS 367.4917, the Commission has authority to investigate and assess civil penalties for any violation of the Act that results in excavation damage to an underground facility used to transport natural gas or hazardous liquid subject to federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.* Any person who violates any provision of the Act is subject to assessment of a civil penalty in the amount of \$250 for the first offense, no more than \$1,000 for the second offense within one year, and no more than \$3,000 for the third and any subsequent offense. Additionally, any person whose violation of the Act results in damage to an underground facility containing any flammable, toxic, corrosive, or hazardous material or results in the release of any flammable, toxic, corrosive, or hazardous material is subject to an additional penalty of up to \$1,000.

Following receipt from an operator of excavation damage to its underground gas pipeline, Commission Staff (Staff) conducted an investigation and prepared an Incident

Report, a copy of which is attached to this Order as an Appendix. In its Incident Report, Staff cites Scott Excavating, Inc., for violation of the following provision of the Act:

KRS 367.4911(1)(a) – Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full working days nor more than ten (10) full working days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that Scott Excavating, Inc., violated the Underground Facility Damage Prevention Act. The Commission further finds that a formal investigation into the excavation damage incident should be conducted.

IT IS THEREFORE ORDERED that:

1. Scott Excavating, Inc., shall submit to the Commission a written response to the allegations contained in the Staff Incident Report within 20 days of the date of this Order.

2. Scott Excavating, Inc., shall appear on August 9, 2019, at 9 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violation of the Underground Facility Damage Prevention Act, and showing cause why it should not be subject to the penalties prescribed in KRS 367.4917(1) and (4) for this alleged violation.

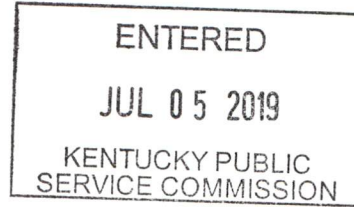
3. The August 9, 2019 hearing shall be recorded by videotape only.

4. A person shall not file a paper or appear at a hearing on behalf of, or otherwise represent, a partnership, corporation, business entity or other person unless the person is an attorney licensed to practice law in Kentucky.

5. The Staff Incident Report in the Appendix to this Order is made a part of the record in this case.

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By the Commission



ATTEST:

  
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00158 DATED **JUL 05 2019**

TWO PAGES TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

<b>KY PSC Investigator(s)</b> John Lyons	<b>Incident ID</b> 20857
<b>Incident Date</b> 8/14/2018 4:30:00 PM	<b>Report Submitted</b> 8/29/2018 10:34:11 AM

## OPERATOR INFORMATION

<b>Operator</b> Delta Natural Gas Company, Inc. <b>Phone</b> 859-744-6171 ext. 1160 <b>Incident Location</b> 113 Mountain View Drive 113 Mountain View Dr Berea, KY 40403  Madison	<b>Reported By</b> Mary Virginia Rupard <b>Email</b> mvrupard@deltagas.com <b>Locate Ticket Number</b>
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## EXCAVATOR INFORMATION

<b>Name of Excavator</b> Aaron Thomas <b>Phone</b> 859-623-4199 <b>Excavator Address</b> Scott Excavating, Inc 3845 New Irvine Road Richmond, KY 40475	<b>Organization ID</b> 0523861 <b>Email</b> <b>Locate Ticket Number</b>
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Operator reports that Aaron Thomas with Scott Excavating was using a mini-trackhoe to replace septic lines when he hit and broke a 3/4-inch plastic service line. Scott Excavating did not call 811 to request a line location prior to excavating.

Investigator Lyons called Scott Excavating on November 16, 2018. The receptionist took the information and said that someone would have to call back. Company is active and in good standing with Secretary of State.

Investigator Lyons recived a call from Scott Thomas, owner of Scott Excavating. He alleges that he did not call 811 because his company was working on junction boxes in an existing septic system and that other utilities are not supposed to be in a septic field. Mr. Thomas was asked to send a diagram of the gas service line in relationship to the existing septic field. Scottexcavating@bellsouth.net.

Investigator Lyons spoke with Mary Virginia Rupard on November 20, 2018. She is going to send a map of the service, indicating when it was installed and its' configuration to the home it serves.

Mr. Thomas provided the diagram as promised. Delta also provided the service map of the area. Both matched very well and it was evident that service came to the back of the house.

Mr. Thomas was contacted by phone on November 21, 2018, by Investigator Lyons who had determined that Mr. Thomas was in violation by not calling 811. First time offender options were explained to Mr. Thomas. Mr. Thomas relayed that he would think about the options and return call the following week.

Investigator Lyons left a follow-up message with Scott Excavating on December 5, 2018.

April from Scott Excavating left a message on December 6, 2018 and confirmed first time offender option was chosen.

## Violations(s)

KRS 367.4911(1)(a) - Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full working days nor more than ten (10) full working days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.

Aaron Thomas  
Scott Excavating, Inc.  
3845 New Irvine Road  
Waco, KENTUCKY 40385