

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PREMIER UNDERGROUND LLC

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ALLEGED VIOLATION OF UNDERGROUND  
FACILITY DAMAGE PREVENTION ACT

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CASE NO.  
2019-00162

ORDER

Premier Underground LLC (Premier) is a Kentucky limited liability company and on August 15, 2018, Premier was boring at 819 Paris Road, Mayfield, Kentucky, and allegedly damaged a natural gas line.<sup>1</sup> Pursuant to KRS 278.495(2), the 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

<sup>1</sup> Pipeline Damage Investigation Report, Incident #20812, Attached as Appendix A.

of any flammable, toxic, corrosive, or hazardous material is subject to an additional penalty of up to \$1,000.

On August 16, 2018, Atmos Energy Corporation reported to the Commission, pursuant to KRS 367.4909(4), excavation damage to its underground gas pipeline, located at 819 Paris Road, Mayfield, Kentucky.<sup>2</sup> Commission Staff (Staff) conducted an investigation and determined Premier had violated the Kentucky Underground Facility Damage Prevention Act<sup>3</sup> by failing to hand-dig in the approximate location of the underground facility.

On November 19, 2018, Staff sent a Demand Letter to Premier in which it cited Premier for the violation and set forth a civil penalty of \$1,250, \$1,000 suspended contingent upon Premier's completion of Damage Prevention training conducted at the Commission's offices. A copy of the Demand Letter is attached to this Order as Appendix B.

On February 25, 2019, the Commission received a check for \$250 from Premier.<sup>4</sup> However, no one from Premier attended Damage Prevention trainings held at the Commission's offices on February 4, 2019, and May 6, 2019.

The Commission initiated this proceeding following Premier's failure to attend either the February 4, 2019, or the May 6, 2019 training. On August 9, 2019, the

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<sup>2</sup> *Id.*

<sup>3</sup> KRS 367.4911(10). When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

<sup>4</sup> Receipt, Feb.25, 2019, attached as Appendix C.

Commission received a check from Premier in the amount of \$1,000 satisfying payment of the penalty for this incident. The receipt of payment is attached to this Order as Appendix D.

The Commission finds that Premier has complied with the terms of the November 19, 2018 Demand Letter. The Commission further finds that this case should be closed

The Commission, on its own motion, HEREBY ORDERS that this case is closed and removed from the Commission's docket.

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By the Commission

Commissioner Talina Mathews did not participate in this case.



ATTEST:

  
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00162 DATED **SEP 23 2019**

ONE PAGE TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

<b>KY PSC Investigator(s)</b> John Lyons	<b>Incident ID</b> 20812
<b>Incident Date</b> 8/15/2018 9:40:00 AM	<b>Report Submitted</b> 8/16/2018 7:28:46 AM

## OPERATOR INFORMATION

<b>Operator</b> Atmos Energy Corporation <b>Phone</b> (270) 779-4849 <b>Incident Location</b> 819 Paris Rd - Mayfield 819 Paris Rd Mayfield, KY 42066  Graves	<b>Reported By</b> Anthony Stallins <b>Email</b> anthony.stallins@atmosenergy. <b>Locate Ticket Number</b> 1808100784
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## EXCAVATOR INFORMATION

<b>Name of Excavator</b> Tim Dunn <b>Phone</b> 270-445-0422 <b>Excavator Address</b> PREMIER UNDERGROUND LLC 1395 State Route 1022 W Bardwell, KY 42023	<b>Organization ID</b> 0932109 <b>Email</b> N/A <b>Locate Ticket Number</b>
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Operator reports that excavator, Premier Underground, was boring at 819 Paris Rd in Mayfield, and struck 3/4" PE service. Premier did have a locate ticket (1808100784) which was located correctly and had dug a small hole over the service but had not exposed the line. Hit line in boring process.

Company is active and in good standing with the Secretary of State.

Investigator Lyons called Mr. Tim Dunn on November 19, 2018, to discuss the report of damage. Mr. Dunn confirmed Atmos' report and agreed to first time offender option of attending the February 4, 2019 Damage Prevention Training and a \$250 penalty.

Violation(s)

KRS 367.4911(10) – When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00162 DATED **SEP 23 2019**

TWO PAGES TO FOLLOW



Matthew G. Bevin  
Governor

Charles G. Snavely  
Secretary  
Energy and Environment Cabinet

Commonwealth of Kentucky  
**Public Service Commission**  
211 Sower Blvd.  
P.O. Box 615  
Frankfort, Kentucky 40602-0615  
Telephone: (502) 564-3940  
Fax: (502) 564-3460  
psc.ky.gov

Michael J. Schmitt  
Chairman

Robert Cicero  
Vice Chairman

Talina R. Mathews  
Commissioner

November 19, 2018

Mr. Tim Dunn  
Premier Underground LLC  
1395 State Route 1022 W  
Bardwell, KY 42023

Re: Violation of Kentucky Underground Facility Damage Prevention Act  
Incident Number: 20812

### **DEMAND FOR REMEDIAL MEASURES AND PENALTY ASSESSMENT**

Dear Mr. Dunn:

The Kentucky Public Service Commission (Commission) received a report on August 16, 2018, regarding damage to a natural gas or hazardous liquid facilities owned and/or operated by Atmos Energy Corporation. Under the Kentucky Underground Facility Damage Prevention Act (Act), KRS 367.4901 through KRS 367.4917, the Commission has jurisdiction to investigate excavation damage to underground facilities used to transport gas or hazardous liquid subject to federal pipeline safety laws, 49 U.S.C. secs. 60101 et seq. The Commission regulates the safety of jurisdictional natural gas pipelines in the Commonwealth pursuant to KRS 278.495 and 49 CFR Parts 190, 191, 192 and 195.

Following receipt of the damage notification, Commission Staff (Staff) performed an investigation of the incident and prepared the attached incident report. Based on its investigation of the incident, Staff has determined that Premier Underground LLC (Premier) committed the following violation(s) of the Act:

- KRS 367.4911(10) – When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

### **CIVIL PENALTY**

KRS 367.4917 provides that a person who commits a violation of the Act shall be subject to a civil penalty not to exceed \$250 for the first violation, \$1,000 for the second violation within one year, and \$3,000 for the third and any subsequent violation within one year. If the violation results in damage to an underground pipeline used to transport gas or hazardous liquid, the violator is subject to an additional civil penalty not to exceed \$1,000 per violation.

Based on its investigation of this matter, Staff has determined that Premier is subject to assessment of a civil penalty for failing to comply with KRS 367.4911, first offense, plus an additional penalty for damaging underground facilities used to transport natural gas or hazardous



liquid. Staff finds that Premier should be assessed a penalty in the total amount of \$1,250, but that \$1,000 of the penalty should be suspended contingent upon completion of the following remedial measures.

### REMEDIAL MEASURES

- A representative of Premier shall attend a Damage Prevention training course to be held at the offices of the Commission, 211 Sower Blvd. in Frankfort, Kentucky, 40602 on February 4, 2019. The course will begin at 1:00 p.m. and conclude at 3:00 p.m.

If Premier does not wish to contest the proposed penalty, Premier should mail or deliver a cashier's check or money order made payable to the "**Kentucky State Treasurer**" within 30 days of the date of this letter, to:

Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40602

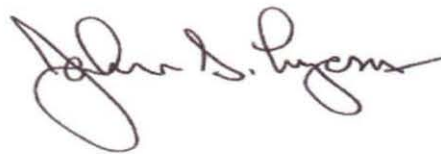
Please include the Incident Number 20812 on the cashier's check or money order submitted for payment.

Payment of the proposed civil penalty and completion of the remedial measure will satisfy and resolve any and all claims against Premier for any violation of the Act, arising out of the August 15, 2018 incident. Premier's payment of the proposed civil penalty will not be considered an admission by (Excavator) that it willfully violated any provision of the Act.

If Premier does not pay the proposed civil penalty within 30 days of the date of this letter, the Commission will institute an administrative proceeding against Premier and hold a formal hearing during which Premier will have an opportunity to present evidence and show cause why it should not be assessed penalties under KRS 367.4917 as a result of the August 15, 2018 incident.

If you have any questions regarding this demand for remedial measures and penalty assessment, please contact Michael Nantz, Damage Prevention Coordinator, Division of Inspections at 502-782-2602.

Sincerely



John S. Lyons  
Deputy Executive Director  
Kentucky Public Service Commission

Attachment

APPENDIX C

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00162 DATED **SEP 23 2019**

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIPT OF PAYMENT

This is to acknowledge receipt of check 1333 for \$250.00 payable to Kentucky State Treasurer on February 25, 2019 from PREMIER UNDERGROUND LLC. The check represents payment of penalty as set out in the Demand Letter of November 19, 2018 - Incident #20812.



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Gwen R. Pinson  
Executive Director  
Dated February 25, 2019


APPENDIX D

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00162 DATED **SEP 23 2019**

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIPT OF PAYMENT

This is to acknowledge receipt of check 1378 for \$1,000.00 payable to Kentucky State Treasurer on August 9, 2019 from PREMIER UNDERGROUND LLC. The check represents payment of penalty as set out in the Demand Letter of November 19, 2018 - Incident #20812.



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Gwen R. Pinson  
Executive Director  
Dated August 9, 2019

\*Tim Dunn  
Premier Underground LLC  
1395 ST RT 1022W  
Bardwell, KENTUCKY 42023