

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BASHAM CONSTRUCTION AND RENTAL)	
COMPANY, INC.)	
)	CASE NO.
_____)	2019-00299
)	
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY 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 a report 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 Basham Construction and Rental Company, Inc. (Basham) for violation of the following provision 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.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that Basham 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. Basham 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. Basham shall appear on September 27, 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 September 27, 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, or business entity (including a limited liability company) 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.

6. This Order shall be served via certified mail, return receipt accepted, to Basham Construction and Rental Company, Inc. c/o Randall Basham, Agent for Service of Process, 372 Tug Howard Road, Leitchfield, KY 42754.

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By the Commission

ENTERED
AUG 27 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2019-00299

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00299 DATED **AUG 27 2019**

[ONE PAGE TO FOLLOW]

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 31394
Incident Date 2/21/2019 8:14:00 AM	Report Submitted 3/20/2019 3:19:56 PM

OPERATOR INFORMATION

Operator Louisville Gas and Electric Company	Reported By Mike Jones
Phone (502) 364-8281	Email Mike.Jones@lge-KU.com
Incident Location 1644 Rangeland Rd Louisville, KY 40219 Jefferson	Locate Ticket Number 1902141238

EXCAVATOR INFORMATION

Name of Excavator Ford, Trampis	Organization ID
Phone 502-961-9001	Email
Excavator Address Basham Construction 1102 Southpark Road Louisville, KY 40118	Locate Ticket Number

INCIDENT

Excavator damaged gas service while back-filling after water main installation. The nature of the damage to the service suggests it was damaged during back-filling.

INVESTIGATION

Basham Construction and Rental Company, Inc. is a Kentucky corporation that is active and in good standing with the Secretary of State's office.

June 18, 2019 spoke with Chris Powell of Basham. He will investigate this incident and get back with me.

June 27, 2019 spoke with Chris Powell of Basham. He said that this was a wide trench, and Louisville Water Company required them to backfill with rock. They did so, and that night it rained heavily, causing the rock to settle down more which caused the damage.

June 28, 2019 a review of LWC requirements indicate that rock is one acceptable backfill, however there is a requirement to tamp down the backfill every 6 inches. After discussions with management it is decided that a demand letter is in order for this incident. I called Chris Powell's cell phone (502.386.3913) and left a voicemail stating that a demand letter was coming for this incident.

VIOLATION

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.

Randall Basham
Registered Agent
Basham Construction and Rental Company, Inc.
372 Tug Howard Road
Leitchfield, KENTUCKY 42754