

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY FRONTIER GAS, LLC	)	
	)	
_____	)	CASE NO.
	)	2019-00318
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 of a report of excavation damage to its underground gas pipeline from an operator, 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 for incident number 31332, Staff cites Kentucky Frontier Gas, LLC (Kentucky Frontier) for violation of the following provisions of the Act:

KRS 367.4909(6)(a) - An operator shall, upon receiving an emergency locate request or a normal excavation locate request inform the excavator of the approximate location and the description of any of the operator's facilities that may be damaged or pose a safety concern because of excavation or demolition.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that Kentucky Frontier 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. Kentucky Frontier 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. Kentucky Frontier shall appear on November 8, 2019, at 9 a.m., Eastern Standard 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. 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.

4. The November 8, 2019 hearing shall be recorded by video only.

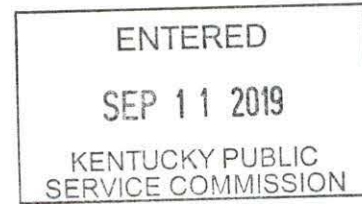
5. The Staff Incident Report in the Appendix to this Order is made a part of the record in this case.

6. This Order shall be served via certified mail, return receipt accepted, to CT Corporation System, 306 West Main Street, Suite 512, Frankfort, Kentucky 40601.

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By the Commission

Commissioner Talina Mathews did not participate in this case.



ATTEST:

  
Executive Director

Case No. 2019-00318

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00318 DATED **SEP 11 2019**

ONE PAGE TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

<b>KY PSC Investigator(s)</b> John E. Gowins	<b>Incident ID</b> 31332
<b>Incident Date</b> 1/23/2019 9:30:00 AM	<b>Report Submitted</b> 2/18/2019 2:22:35 PM

## OPERATOR INFORMATION

<b>Operator</b> Kentucky Frontier Gas, LLC	<b>Reported By</b> Heather Music
<b>Phone</b> 606-886-2431 ext. 100	<b>Email</b> hmusic@kyfrontiergas.com
<b>Incident Location</b> 37.68307 -82.82172 Abbott Creek Road Prestonsburg, KY 41653	<b>Locate Ticket Number</b> NA
Floyd	

## EXCAVATOR INFORMATION

<b>Name of Excavator</b> Messer, Louie	<b>Organization ID</b>
<b>Phone</b> 304-928-8875	<b>Email</b>
<b>Excavator Address</b> Water Dawgs Construction 7435 S KY Route 321 Hagerhill, KY 41222	<b>Locate Ticket Number</b>

## INCIDENT

While doing a bore job for Boca Engineering Company, the mole being used by the construction company came in contact with and damaged KFG's 4" main line. KFG was aware of a job being done in the area and had indicated to Boca Engineering that there were lines in the area. No dig ticket.

## INVESTIGATION

Water Dogs Construction, LLC is a Kentucky limited liability company that is active and in good standing with the Secretary of State's office. Organizer is Lewis Messer.

May 17, 2019

- Called number and left a message about incidents #21123 and #31332. I explained that I had called several times and not received a call back. I indicated that in three days I would be sending two demand letters, one with a \$1250 penalty, and one with a \$2000 penalty. I stated that if they wanted to discuss the matter they could call me and I gave my number.
- Received a call from Louis Messer. He stated that he did have a dig ticket for this incident, but that KFG couldn't locate the line when they came out. I asked him to find the number for me, and to summarize his side of the story in an email to me.

May 24, 2019 a review of the dig ticket provided by Boca Engineering indicates that Mr. Messer is correct that there was a dig ticket for this project.

July 2, 2019 held a conference call with Mike Harris, Heather Music, and Steve Shute of Kentucky Frontier Gas, LLC. The discussion revolved around interpretations of the statute language. Mr. Lyons of KPSC explained the perspective of the damage prevention program per the statute. KFG personnel agreed to review the summary of the 13 incidents provided to them and to respond.

## VIOLATION

KRS 367.4909 (6) (a) An operator shall, upon receiving an emergency locate request or a normal excavation locate request inform the excavator of the approximate location and description of any of the operator's facilities that may be damaged or pose a safety concern because of excavation or demolition.

CT Corporation System Register Agent  
Kentucky Frontier Gas, LLC  
306 W Main Street, Suite 512  
Frankfort, KENTUCKY 40601

\*Honorable John N Hughes  
Attorney at Law  
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