

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DRAIN PRO, LLC)
)
_____)

ALLEGED VIOLATION OF UNDERGROUND)
FACILITY DAMAGE PREVENTION ACT)

CASE NO.
2019-00334

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, Staff cites Drain Pro, LLC (Drain Pro), for violation of the following provision of the Act:

KRS 367.4911(8) – The excavator shall contact the protection notification center to request remarking two (2) working days in advance of the expiration of each twenty-one (21) day period while excavation or demolition continues....

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that Drain Pro 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. Drain Pro shall submit to the Commission a written response to the allegations contained in the Staff Incident Report on or before October 21, 2019.
2. Drain Pro shall appear on November 22, 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 22, 2019 hearing shall be recorded by videotape only.

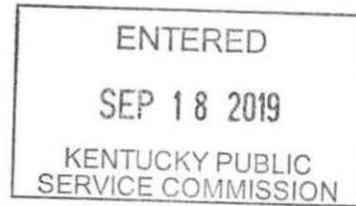
5. The Staff Incident Report in the Appendix to this Order is made a part of the record in this case.

6. This Order shall be served via certified mail, return receipt accepted, to Drain Pro, LLC, c/o Demoine Lee, as Registered Agent for Service of Process, at 3007 Dixie Highway, Suite 2, Louisville, Kentucky 40216.

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By the Commission

Commissioner Talina Mathews did not participate in this case.



ATTEST:

for 
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00334 DATED **SEP 18 2019**

ONE PAGE TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

INVESTIGATION INFORMATION

KY PSC Investigator(s) Eric V. Tout	Incident ID 21017
Incident Date 9/8/2018 10:07:00 AM	Report Submitted 10/5/2018 11:43:31 AM

OPERATOR INFORMATION

Operator Louisville Gas and Electric Company Phone (502) 364-8724 Incident Location 5308 Buckner Ave Louisville, KY 40214 Jefferson	Reported By Paul Stratman Email Paul.Stratman@lge-KU.com Locate Ticket Number 1807241294
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EXCAVATOR INFORMATION

Name of Excavator Lee, Demoine Phone 502-450-6317 Excavator Address Drain Pro 3007 Dixie Hwy Louisville, KY 40216	Organization ID 0933210 Email Locate Ticket Number 1807241294
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Incident:

The Operator reports the plumber was installing water and sewer lines at Habitat for Humanity project house and hit a gas line. EFV installed on service so there was no blowing gas and plumber assumed the line was dead because the home did not have a gas meter. The Plumber claimed the line was unmarked. Photos of locates were not conclusive (no clear photo of this specific area in photos).

Investigation:

The above Locate Ticket Number was obtained from the protection notification center (811) indicating the request was filled on 07/24/18 with a 21 day expiration date of 08/13/18 with the excavation occurring on 09/08/18. This indicating the excavation occurred approximately 26 days after the locate request.

04/05/19 the below interviews were conducted:

The Operator, Louisville Gas and Electric Mike Jones (502-364-8281), stated that the above noted Incident Location address is a curbside service and the homes are in close proximity. Mr. Jones stated that it appears the neighbor's curbside service was located on the above noted Locate Ticket Number, not the 5308 Buckner Ave. service.

The Excavator, Drain Pro, Demoine Lee (502-963-8063), stated that Drain Pro was excavating at 5308 Buckner Ave. in proximity of said address's property line. Mr. Lee stated that the neighboring address was clearly marked and he was not excavating within that location. Mr. Lee stated that he hit a line which he thought was dead, he heard or smelled no gas and no meter was at the residence, therefore he continued to excavate. Mr. Lee stated that three days later he was contacted by Louisville Gas and Electric that the curbside service pipe was hit.

Violation:

Drain Pro excavated approximately 26 days after the protection notification center (811) excavation ticket expired in violation of **KRS 367.4911 (8)** - The excavator shall contact the protection notification center to request remarking two (2) working days in advance of the expiration of each twenty-one (21) day period while excavation or demolition continues.

Demonie Lee
Drain Pro, LLC
3007 Dixie HWY. STE 2
Louisville, KENTUCKY 40216