

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOEY HODGES )

\_\_\_\_\_ )

ALLEGED VIOLATION OF UNDERGROUND )  
FACILITY DAMAGE PREVENTION ACT )

CASE NO.  
2019-00336

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 Joey Hodges (Mr. Hodges) 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 Mr. Hodges 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. Mr. Hodges shall submit to the Commission a written response to the allegations contained in the Staff Incident Report on or before October 21, 2019.
2. Mr. Hodges 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 he 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 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 upon Joey Hodges by the Hancock County Sheriff.

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By the Commission

Commissioner Talina Mathews did not participate in this case.



ATTEST:

  
Executive Director

Case No. 2019-00336

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00336 DATED **SEP 17 2019**

[TWO PAGE TO FOLLOW]

## PIPELINE DAMAGE INVESTIGATION REPORT

### Investigation Information

<b>KY PSC Investigator(s)</b> John E. Gowins	<b>Incident ID</b> 21169
<b>Incident Date</b> 11/17/2018 12:19:00 PM	<b>Report Submitted</b> 11/26/2018 4:18:35 PM

### OPERATOR INFORMATION

<b>Operator</b> City of Lewisport Natural Gas System	<b>Reported By</b> Jason Roberts
<b>Phone</b> (270) 295-3324	<b>Email</b> jason.roberts@live.com
<b>Incident Location</b> 738 Sand Hill Road/Front of Property 738 Sand Hill Rd Lewisport, KY 42351  Hancock	<b>Locate Ticket Number</b> N/A

### EXCAVATOR INFORMATION

<b>Name of Excavator</b> Hodges, Joey	<b>Organization ID</b>
<b>Phone</b> 270-295-6625	<b>Email</b>
<b>Excavator Address</b> 738 Sand Hill Rd Lewisport, KY 42351	<b>Locate Ticket Number</b>

### INCIDENT

Operator reports that a 2" PE Gas main was damaged by a trencher. Customer was trenching water service to the house. Customer did not call in an 811 dig ticket.

### INVESTIGATION

June 17, 2019

- Spoke with Jason Roberts to verify that Joey Hodges was the homeowner at this location.
- Called number given for Mr. Hodges above, it rang and rang, there was no voicemail service.

June 21, 2019 called again, same result.

June 24, 2019 called again, same result.

June 27, 2019 called again, same result.

July 1, 2019 called 270.485.1324. Spoke with Mr. Hodges. He said that he did not have a dig ticket and Lewisport didn't put the gas line where they should have. I explained the options for resolution of the violation, and he stated that he could not come to Frankfort for training, he was too busy with work. He said that he would go after Lewisport to pay his \$500 penalty. I told him I was going to send the letter and he could work out his issues with the city.

### VIOLATION

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.

Joey Hodges  
738 Sand Hill Road  
, KENTUCKY 42351