

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE LANDSCAPING AND)	
EXCAVATION, LLC)	
_____)	CASE NO.
)	2019-00337
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, Staff cites Louisville Landscaping and Excavation, LLC (Louisville Landscaping) 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 Louisville Landscaping 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. Louisville Landscaping shall submit to the Commission a written response to the allegations contained in the Staff Incident Report on or before October 21, 2019.
2. Louisville Landscaping 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 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 Louisville Landscaping and Excavation, LLC, 4412 River Road, Louisville, Kentucky 40222, and 7804 Applevue Lane, Louisville, Kentucky 40228.

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By the Commission

Commissioner Talina Mathews did not participate in this case.



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00337 DATED **SEP 19 2019**

ONE PAGE TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 31284
Incident Date 12/16/2018 3:15:00 PM	Report Submitted 1/15/2019 11:46:19 AM

OPERATOR INFORMATION

Operator Louisville Gas and Electric Company	Reported By Mike Jones
Phone (502) 364-8281	Email Mike.Jones@lge-KU.com
Incident Location 4207 Chenoweth Run Rd Louisville, KY 40299 Jefferson	Locate Ticket Number 1811200231

EXCAVATOR INFORMATION

Name of Excavator Thomas, Adam	Organization ID
Phone 502-693-1625	Email
Excavator Address Louisville Landscaping & Excavation 7804 Appleview Ln Louisville, KY 40228	Locate Ticket Number

INCIDENT

Excavator had a locate request which was completed but had expired 6 days previous to the damage; there was not an additional request or a 2nd issuance of the original request; excavator dug on expired locate request.

INVESTIGATION

Louisville Landscaping & Excavation, LLC, is a Kentucky limited liability company that is inactive and in bad standing with the Secretary of State's office.

This will be the company's first violation.

July 3, 2019 called the above number, left a voicemail.

July 10, 2019 called the above number, message was that this person was not taking calls at this time, please try again later. Decision made to send demand letter.

VIOLATION

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.

Louisville Landscaping and Excavation, LLC
4412 River Road
Louisville, KENTUCKY 40222

*Adam Thomas
7804 Appleview Ln.
Louisville, KENTUCKY 40228