

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CHAD PEERCY)	
)	
_____)	CASE NO.
)	2019-00339
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

ORDER

Concerning the allegation that Chad Peercy (Mr. Peercy) violated KRS 367.4911(10) when on January 16, 2019, at approximately 4:30 p.m. at 113 Mountain View Drive, Berea, Kentucky 40403, he conducted excavation activities within the approximate location of an underground facility using mechanized equipment and thereby caused damage to an underground gas service line owned and operated by Delta Natural Gas Company, Inc. (Delta), which was used to serve the public.

KRS 367.4911(10) provides that when excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use non-intrusive means to avoid damage to the underground facility.

Testimony at the hearing was provided by John E. Gowins, a PSC inspector. The evidence established conclusively that on January 16, 2019, at approximately 4:30 p.m., Mr. Peercy operated excavation equipment at the location referred to above. Prior to commencing the excavation, Mr. Peercy contacted the applicable notification protection center on January 8, 2019, and provided notice of his intended work and his work schedule as required by KRS 367.4911(1)(a). Subsequent to notification, Delta marked

the location of its underground natural gas service line. Utilizing hand digging, Mr. Peercy exposed the service line prior to excavating with mechanical equipment. However, while using mechanized equipment, Mr. Peercy made contact, either directly or indirectly, with and damaged Delta's natural gas service line, which contained natural gas at the time it was damaged.

FINDINGS OF FACT

The testimony presented at the hearing as well as the exhibits filed into evidence at the hearing establish that:

1. Mr. Peercy was at the time the damage occurred on January 16, 2019, an excavator as defined by KRS 367.4903(4), who caused damage to a natural gas service line by means of excavation, as defined by KRS 367.4903(2)(6). The natural gas service line was an underground facility owned and operated by Delta to serve the public. The service line contained natural gas at the time it was damaged by Mr. Peercy.

2. Mr. Peercy's excavation work was not emergency work within the scope of KRS 367.4907 or the definition of "Emergency," as defined by KRS 367.4903(7).

3. After exposing the Delta natural gas service line by hand digging, Mr. Peercy employed the use of mechanical equipment to complete his excavation work, and in so doing, damaged Delta's natural gas service line. In damaging Delta's natural gas service line by using mechanized equipment, Mr. Peercy violated KRS 367.4911(10).

CONCLUSIONS OF LAW

1. Mr. Peercy violated KRS 367.4911(10) by conducting a mechanical excavation in the approximate location of an underground natural gas service line owned and operated by Delta to serve the public. Mr. Peercy was required to conduct its

excavation by hand digging or use nonintrusive means to avoid damage to the underground facility in question. KRS 367.4917(1) provides that an excavator that fails to comply with any provision of KRS 367.4911 shall be guilty of endangering underground facilities and may be subject to a fine of no more than two hundred fifty (\$250) dollars for the first offense. The incident, which occurred on January 16, 2019, was Mr. Peercy's first offense and subjects him to a potential fine of two hundred fifty (\$250) dollars.

2. KRS 367.4917(4) provides that any person who violates any provision of the act that involves to a facility containing any flammable, toxic, corrosive, or hazardous material, or results in the release of any flammable, toxic, corrosive, or hazardous material shall be subject to a fine not to exceed one thousand dollars (\$1,000) for each offense. The service line at the time it was damaged by Mr. Peercy contained natural gas, thereby subjecting Mr. Peercy to a potential additional fine of one thousand dollars (\$1,000.)

3. Mr. Peercy is, by reason of his failure to comply with the aforementioned provisions of the Underground Facility Damage Prevention Act as hereinbefore set out, subject to a maximum fine of one thousand two hundred fifty dollars (\$1,250.)

IT IS THEREFORE ORDERED that:

Mr. Peercy is assessed a civil penalty of two hundred fifty dollars (\$250) for violation of KRS 367.4911(10) and an additional penalty of one thousand dollars (\$1,000) for violation of KRS 367.4917(4). Mr. Peercy shall pay a total of one thousand two hundred fifty dollars (\$1,250) within thirty (30) days of the date of this Order by cashier's check or money order payable to the Kentucky State Treasurer and mailed or delivered to the office of the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky 40602.

THIS IS A FINAL AND APPEALABLE ORDER OF THE PUBLIC SERVICE COMMISSION.

An application for a rehearing may be filed with the Commission within 20 days after service of this Order as provided by KRS 278.400. Any appeal of this Order must be filed with the Franklin Circuit Court within 30 days after service of this Order or within 20 days after an application for rehearing has been denied by failure of the Commission to act or within 20 days after service of the final Order, as set out in KRS 278.410.

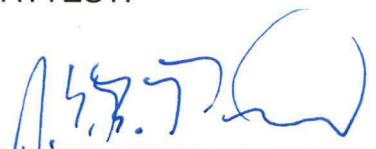
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By the Commission

Commissioner Talina Mathews did not participate in this case.

ENTERED
NOV 25 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director
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