

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOEY CASEY)	
)	
_____)	CASE NO.
)	2021-00271
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

ORDER

A hearing was held before the Kentucky Public Service Commission (Commission) on October 29, 2021, at its offices at 211 Sower Boulevard, Frankfort, Kentucky, concerning the allegation that Joey Casey violated KRS 367.4911(10) and KRS 367.4911(8) when, on May 13, 2020, at approximately 6:29 p.m. at 108 Tando Way, Ft. Mitchell, Kentucky 41017, he conducted excavation activities without contacting the protection notification center to request a remarking of the underground facilities two working days prior to the expiration of the locate ticket and utilized mechanized equipment within the approximate location of an underground facility. Mr. Casey failed to appear at the hearing. It was determined that Mr. Casey caused damage to an underground gas service line owned and operated by Duke Energy Kentucky, Inc. (Duke Kentucky) used to serve the public.

FINDINGS OF FACT

The testimony presented at the hearing as well as the exhibits filed in the record establish that:

1. Mr. Casey, at the time the damage occurred on May 13, 2020, was 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) and (6). The natural gas service line was an underground facility owned and operated by Duke Kentucky to serve the public. The service line contained natural gas at the time it was damaged by Mr. Casey.

2. Mr. Casey failed to call the Kentucky Contact Center (811) to request remarking two days in advance of the expiration of his prior locate request as required by KRS 367.4911(8).

3. Mr. Casey's excavation work was not emergency work within the scope of KRS 367.4907, or the definition of "Emergency" as defined in KRS 367.4903(7), and no exception to the call requirement is applicable to this case.

4. Mr. Casey failed when conducting excavation operations to hand dig or use non-intrusive means to avoid damage to the underground facility in violation of KRS 367.4911(10).

5. There are no known mitigating factors which would merit the imposition of a civil penalty less than the maximum provided by law. This violation is Mr. Casey's first violation of KRS 367.4901 through KRS 367.4917.

CONCLUSIONS OF LAW

1. Mr. Casey violated KRS 367.4911(8) in that he did not contact 811 to request remarking two full workdays in advance of the expiration of his prior locate request.

2. As a consequence, the approximate location of an underground facility was not marked, and Mr. Casey struck and damaged it while using mechanized equipment in violation of KRS .367.4911(10).

3. Mr. Casey is subject to a civil penalty in the amount of \$1,250 for this violation by operation of KRS 367.4917(1) and KRS 367.4917(4).

IT IS THEREFORE ORDERED that:

1. Mr. Casey is assessed a civil penalty of \$1,250 for violation of KRS 367.4911(10).

2. Mr. Casey shall pay \$1,250 within 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.

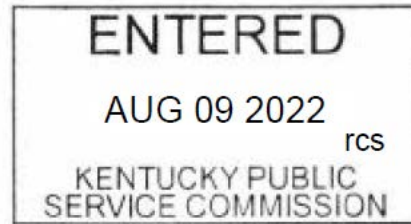
An application for a rehearing may be filed with the Commission within 20 days after service of this Order as provided by KRS 278.400. Any appeal of this Order must be filed with the Franklin Circuit Court within 30 days after service of this Order or within 20 days after an application for rehearing 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.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner



ATTEST:


Executive Director

Joey Casey
4840 Fowler Creek Rd
Covington, KENTUCKY 41017