

1. Keith Gutterman was at the time the damage occurred on July 29, 2018 an excavator as defined by KRS 367.4903(6). The natural gas service line was an underground facility owned and operated by Louisville Gas and Electric Company to serve the public. The service line contained natural gas at the time it was damaged by Gutterman.

2. Gutterman failed to call the Kentucky Contact Center (One Call Center or Protection Notification Center) to obtain information about the approximate location of the damaged natural gas service line not less than two (2) nor more than ten (10) full working days prior to commencing work as required by KRS 367.4911(1)(a).

3. Gutterman'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. There are no known mitigating factors which would merit the imposition of a fine less than the maximum provided by law. This violation is Keith Gutterman's first offense.

CONCLUSIONS OF LAW

1. Gutterman violated the provisions of the Act.

2. KRS 367.4917(1) provides that an excavator who 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 two hundred and fifty dollars (\$250) for the first offense.

3. KRS 367.4917(4) provides that any person who violates any provision of the act that involves damage 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.

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

IT IS THEREFORE ORDERED that:

1. Keith Gutterman is assessed a fine of one thousand two hundred fifty dollars (\$1,250) for violation of KRS 367.4911(1)(a) for failure to provide Louisville Gas and Electric Company, the operator of an underground facility serving the public, with notification of his intended work and work schedule not less than two (2) nor more than ten (10) full working days prior to commencing work.

2. Keith Gutterman shall pay 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, KY 40602.

3. As a first time violator of the Act, Keith Gutterman is eligible for mitigation of penalty as established by the Division of Inspections informal policy and past practice by making a payment of one hundred dollars (\$100) and attending a damage prevention training course to be held at the offices of the PSC at 211 Sower Boulevard, Frankfort, Kentucky on April 6, 2020 at 1:00 p.m. If Keith Gutterman attends the above training

course and on or before that date pays a civil penalty in the amount of one hundred dollars (\$100), the additional one thousand two hundred fifty dollars (\$1,250) assessed against him in numerical paragraph 2 will be vacated.

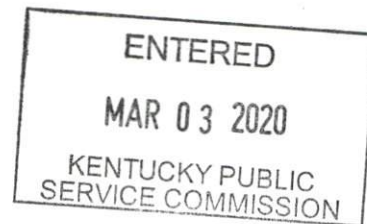
THIS IS A FINAL AND APPEALABLE ORDER OF THE PUBLIC SERVICE COMMISSION.

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 the deliberations or decision concerning this case.



ATTEST:

A handwritten signature in blue ink, consisting of stylized initials and a surname, positioned above a horizontal line.

Executive Director

Keith Gutterman
244 Douglas Drive
Shepherdsville, KENTUCKY 40165