

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CITY OF COVINGTON – ALLEGED VIOLATION)	CASE NO.
OF UNDERGROUND FACILITY DAMAGE)	2019-00157
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 from an operator of excavation damage to its underground gas pipeline, 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 city of Covington for violation of the following provision of the Act:

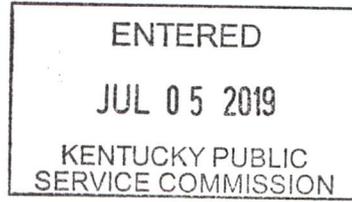
KRS 367.4911(10) – When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that city of Covington 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. City of Covington shall submit to the Commission a written response to the allegations contained in the Staff Incident Report within 20 days of the date of this Order.
2. City of Covington shall appear on August 9, 2019, at 9 a.m., Eastern Daylight 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. The August 9, 2019 hearing shall be recorded by videotape only.
4. A person shall not file a paper or appear at a hearing on behalf of, or otherwise represent, a partnership, corporation, business entity or other person unless the person is an attorney licensed to practice law in Kentucky.
5. The Staff Incident Report in the Appendix to this Order is made a part of the record in this case.

By the Commission



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00157 DATED **JUL 05 2019**

TWO PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Jason Whisman	Incident ID 20924
Incident Date 8/23/2018 9:34:00 AM	Report Submitted 9/13/2018 8:18:34 AM

OPERATOR INFORMATION

Operator Duke Energy Kentucky, Inc. Phone (513) 287-2594 Incident Location 2652 Ridgecrest Ln Covington, KY 41017 Kenton	Reported By Laura Mate Email Laura.Mate@duke-energy.com Locate Ticket Number 1808070615
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EXCAVATOR INFORMATION

Name of Excavator John, Purnell Phone Star Ford Excavator Address 859-292-2120 City of Covington 20 W Pike St Covington, KY 41011 859-292-2292	Organization ID Email Locate Ticket Number
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Excavation Damage:

Description of Incident Excavators failure to properly support and protect facility

Summary Information

9/13/2018

Full details such as the cause damaged by backhoe

Extent of the damage Plastic gas service damaged and required repair. Gas was not escaping when Duke crew arrived.

Cost of the damage \$640.00

Steps taken to prevent re-occurrence Unknown

Amount billed to excavator \$640.00

Inspection Summary:

I called and left a message on 1/14/19. I called and left another message at 8:50 am on 1/16/19. I talked with John Purnell and he stated that they hit it with an excavator. The line was 11" below the surface which was below a road. I tried to call Star Ford, their legal representative on 1/17/19.

Violation:

KRS 367.491(10) When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

Star Ford
City of Covington
20 W Pike St
Covington, KENTUCKY 41011