

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SAPP'S PLUMBING, INC.

ALLEGED VIOLATION OF UNDERGROUND
FACILITY DAMAGE PREVENTION ACT

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CASE NO.
2019-00340

ORDER

A hearing was held before the Kentucky Public Service Commission (PSC) on November 22, 2019, at its offices at 211 Sower Boulevard, Frankfort, Kentucky, concerning the allegation that Sapp's Plumbing, Inc. (Sapp's Plumbing) violated KRS 367.4911(1)(a) on November 5, 2018, at 527 Willow Way, Campbellsville, Kentucky 42718, when it damaged a natural gas pipeline while conducting excavation operations without making a line location request to the One Call Center. Sapp's Plumbing was served with process and notified of the hearing date and time. Mr. Greg Sapp, the owner of Sapp's Plumbing appeared at the hearing and in his testimony admitted that the allegations as set out in the initiating order were true and correct. PSC investigator, John Gowins, testified that he conducted an investigation which established that Sapp's Plumbing had not obtained a locate ticket number from 811 and that Sapp's Plumbing struck the Atmos Energy Corporation natural gas service line while conducting excavation activities.

FINDINGS OF FACT

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

1. Sapp's Plumbing was at the time the damage occurred on November 5, 2018, 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 Atmos Energy Corporation to serve the public. The service line contained natural gas at the time it was damaged by Sapp's Plumbing.

2. Sapp's Plumbing 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. Sapp's Plumbing'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 Sapp's Plumbing's first offense.

CONCLUSIONS OF LAW

1. Sapp's Plumbing violated the requirements of KRS 367.4911(1)(a) by failing to provide 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. 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. Sapp's Plumbing is, by reason of its failure to comply with the applicable provisions of Underground Facility Damage Prevention Act as hereinbefore set out, subject to a maximum fine of one thousand two hundred and fifty dollars (\$1,250).

IT IS THEREFORE ORDERED that:

1. Sapp's Plumbing 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 Atmos Energy Corporation, the operator of an underground facility serving the public, with notification of its intended work and work schedule not less than two (2) nor more than ten (10) full working days prior to commencing work.

2. Sapp's Plumbing 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, Kentucky 40602.

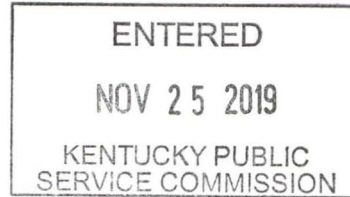
3. As a first time violator of the Act, Sapp Plumbing is eligible for mitigation of penalty as established by the Division of Inspection's informal policy and past practice by making a payment of two hundred and fifty dollars (\$250) and attending a damage prevention training course to be held at the offices of the PSC at 211 Sower Boulevard, Frankfort, Kentucky, on December 2, 2019, at 1 p.m. If Greg Sapp on behalf of Sapp Plumbing attends the above training course, the additional one thousand dollars (\$1,000) assessed against him in numerical paragraph one of this order 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.

By the Commission

Commissioner Talina Mathews did not participate in this case.



ATTEST:


Executive Director

Greg Sapp
Sapp's Plumbing, Inc.
100 McLean Rd.
Campbellsville, KENTUCKY 42718