

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

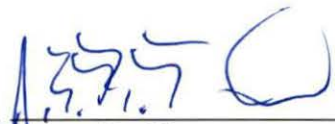
In the Matter of:

HICKS PLUMBING AND CONCRETE, LLC)
_____))
ALLEGED VIOLATION OF UNDERGROUND)
FACILITY DAMAGE PREVENTION ACT)
)

CASE NO.
2019-00392

NOTICE OF FILING

Notice is given to all parties that evidence of successful service of process has been filed into the record of this proceeding.

2019.12.03


Gwen R. Pinson
Executive Director
Public Service Commission
P.O. Box 615
Frankfort, KY 40602

DATED DEC 03 2019

cc: Parties of Record

Pursuant to KRS 278.495(2), the Commission has jurisdiction to regulate the safety of natural gas facilities in Kentucky and to enforce minimum federal pipeline safety standards. Under the Act, 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 of a report of excavation damage to its underground gas pipeline from an operator, 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 Ronald Hicks d/b/a Hicks Plumbing and Concrete, LLC (Mr. Hicks) for violation of the following provision of the Act:

KRS 367.4911(1)(a) – Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full working days nor more than ten (10) full working days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that Mr. Hicks 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. Mr. Hicks shall submit to the Commission a written response to the allegations contained in the Staff Incident Report within 20 days of receipt of this Order.

2. Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.

3. The Staff Incident Report 21049 in the Appendix to this Order is made a part of the record in this case.

4. **Please note that notice of a hearing to be held in this matter will be mailed to Mr. Hicks once proof of service is received by the Commission. Parties who fail to appear after service will be subject to entry of a default judgment against them.**

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

HICKS PLUMBING AND CONCRETE, LLC)

ALLEGED VIOLATION OF UNDERGROUND)
FACILITY DAMAGE PREVENTION ACT)

CASE NO.
2019-00392

OPENING ORDER

Hicks Plumbing and Concrete, LLC (Hicks) has been named as a party to an investigation before the Kentucky Public Service Commission (Commission) for allegedly violating the Kentucky Underground Facility Damage Prevention Act (Act).¹

Pursuant to KRS 278.495(2), the Commission has jurisdiction to regulate the safety of natural gas facilities in Kentucky and to enforce minimum federal pipeline safety standards. Under the Act, 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,

¹ KRS 367.4901 through KRS 367.4917.

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 of a report of excavation damage to its underground gas pipeline from an operator, 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 Hicks for violation of the following provision of the Act:

KRS 367.4911(1)(a) – Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full working days nor more than ten (10) full working days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that Hicks 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:

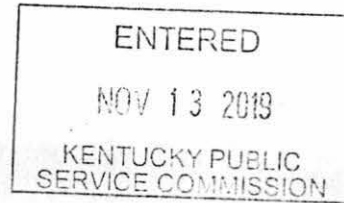
1. Hicks shall submit to the Commission a written response to the allegations contained in the Staff Incident Report within 20 days of receipt of this Order.
2. Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.
3. The Staff Incident Report 21049 in the Appendix to this Order is made a part of the record in this case.

4. Please note that notice of a hearing to be held in this matter will be mailed to Hicks once proof of service is received by the Commission. Parties who fail to appear after service will be subject to entry of a default judgment against them.

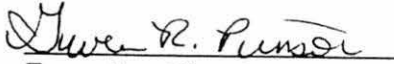
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By the Commission

Commissioner Talina Mathews did not participate in this case.



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00392 DATED **NOV 13 2019**

TWO PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 21049
Incident Date 9/21/2018 10:46:00 AM	Report Submitted 10/12/2018 9:44:31 AM

OPERATOR INFORMATION

Operator Duke Energy Kentucky, Inc.	Reported By Laura Mate
Phone (513) 287-2594	Email Laura.Mate@duke-energy.com
Incident Location 7280 Rimrock Lane 7280 Rimrock Ln Alexandria, KY 41001 Campbell	Locate Ticket Number None

EXCAVATOR INFORMATION

Name of Excavator Matthew, Hicks	Organization ID 1002177
Phone 859-242-8262	Email
Excavator Address Hicks Plumbing and Concrete LLC 14480 Madison Pike Morning View, KY 41063	Locate Ticket Number

INCIDENT

Plastic gas main damaged by backhoe. One call center not called so gas main was not marked.

INVESTIGATION

Hicks Plumbing and Concrete LLC is inactive and in bad standing with the Secretary of State's office.

April 30, 2019 called Matthew Hicks, has a voicemail box that isn't set up yet, should try again later.

May 1, 2019 spoke with Matthew Hicks. He said that another contractor had run over the lines and erased them. I told him that they were required to call and ask for a remarking. He said that he just drove the shovel, nothing else. He said he doesn't work for the company anymore; I need to speak with Ronnie Hicks. Googled Hicks Plumbing and Concrete, LLC. Came up with another number: (859) 991-2088. Called this number and left a voicemail.

May 3, 2019 called (859) 991-2088, left message.

May 6, 2019 called (859) 991-2088, left message.

May 8, 2019 called (859) 991-2088, left message stating that I am sending a demand letter with a \$1250 penalty. If they wanted to offer their side of the incident to please call me.

VIOLATION

KRS 367.4911 (1) (a) Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full working days nor more than ten (10) full working days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.

Ronald Hicks
14480 Madison Pike
Morning View, KENTUCKY 41063