

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

S & B CONCRETE, LLC )  
\_\_\_\_\_ )

ALLEGED VIOLATION OF UNDERGROUND )  
FACILITY DAMAGE PREVENTION ACT )

CASE NO.  
2019-00393

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.

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

DATED DEC 03 2019

cc: Parties of Record

pd 70  
# 23022324

The Order represented here was served by hand delivery by the Jessamine County Sheriff:

This 26<sup>th</sup> day of November, 2019

By: A. Janner Title: \_\_\_\_\_

At (Address of Service): Jessamine Co Sheriff Dept  
101 S. Second St.  
Nicholasville, KY 40356

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED  
KEVIN CORMAN, SHERIFF  
NOV 19 2019  
JESSAMINE COUNTY  
LI \_\_\_\_\_ LO \_\_\_\_\_

In the Matter of:

S & B CONCRETE LLC )  
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ALLEGED VIOLATION OF UNDERGROUND )  
FACILITY DAMAGE PREVENTION ACT )

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OPENING ORDER

S & B Concrete LLC 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).<sup>1</sup>

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

<sup>1</sup> KRS 367.4901 through KRS 367.4917.

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 S & B Concrete LLC (S & B) 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 S & B 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. S & B 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 31373 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 S & B 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.**

Charles B. Anness  
620 Williams Road  
Nicholasville, KENTUCKY 40356