

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KEITH GUTTERMAN – ALLEGED VIOLATION)	CASE NO.
OF UNDERGROUND FACILITY DAMAGE)	2019-00156
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 Keith Gutterman 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 Keith Gutterman 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. Keith Gutterman 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. Keith Gutterman 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.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

By the Commission

ENTERED
JUL 05 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00156 DATED **JUL 05 2019**

TWO PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Jason Whisman	Incident ID 20849
Incident Date 7/29/2018 11:10:00 AM	Report Submitted 8/27/2018 3:00:01 PM

OPERATOR INFORMATION

Operator Louisville Gas and Electric Company Phone (502) 364-8724 Incident Location 205 Halcomb Ct Mount Washington, KY 40047 Bullitt	Reported By Paul Stratman Email Paul.Stratman@lge-KU.com Locate Ticket Number n/a
---	--

EXCAVATOR INFORMATION

Name of Excavator Keith, Gutterman Phone 502-314-6339 Excavator Address 205 Halcomb Ct Mount Washington, KY 40047	Organization ID Email Locate Ticket Number
--	---

Gasline Damage Report:

Excavation Damage: No notification made to the One Call Center

Description of Incident Homeowner digging fence post damaged gas service.

Summary Information

8/27/2018

Full details such as the cause - Homeowner digging without locate request, and damaged gas service.

Extent of the damage - 1/2" gas service.

Cost of the damage - \$547.00

Steps taken to prevent re-occurrence - Advised homeowner to call 811 prior to any excavation.

Amount billed to excavator - \$0.00

Investigation Summary:

I talked with Keith Gutterman on 10/3/18 at 9:48am. He concurred he hit the line with mechanized equipment while digging for a fence. Keith requested the remedial penalty and class instead of the full penalty.

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.

Keith Gutterman
205 Halcomb Court
Mount Washington, KENTUCKY 40047