

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LONNIE WILLIAMS AND SON EXCAVATING, LLC)	
)	
_____)	CASE NO.
)	2019-00161
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

ORDER

A hearing was held before the Kentucky Public Service Commission on September 27, 2019, at its offices at 211 Sower Boulevard, Frankfort, Kentucky, concerning the allegation that Lonnie Williams and Son Excavating, LLC (Williams), violated KRS 367.4911(1)(a) on August 20, 2018, at approximately 5:25 a.m., at 1326 Keavy Road, London, Kentucky, when it conducted excavation or demolition activities within the approximate location of an underground facility using mechanized equipment, and thereby caused damage to an underground gas service line owned and operated by Delta Natural Gas Company, Inc. (Delta), which was used to serve the public.

Testimony at the hearing from Lonnie Williams established that the damage to the natural gas service line in question occurred when a billboard near the highway right-of-way was blown down and fell through the roof of Martin's used car lot. According to Mr. Williams, he and his son were employed to remove four automobiles from the damaged building after the damage. His work was limited to removing two-by-fours and debris by hand so that the automobiles could be removed, and the building repaired. He denied using mechanized equipment in the area of the gas service line, which was located inside

the building. Mr. Williams also testified that the gas line was damaged above ground by the roof after it was impacted by the falling billboard. He denied below-ground damage. He claimed that Delta straightened the damaged pipe above ground but made no other repair and this was before he began work. As he and his son were working inside the building, they discovered a leak in the gas line and contacted Delta. Delta cut off the gas supply and later moved the gas meter and pipeline to a point outside of the building. According to Mr. Williams, he did not call 811 prior to commencing work because his work did not involve either excavation or demolition and did not involve the use of mechanized equipment.

FINDINGS OF FACT

The testimony presented at the hearing establishes that:

1. At the time the damage occurred on August 20, 2018, Williams was neither an excavator as defined by KRS 367.4903(4) nor conducting demolition activities. Williams did not cause damage to a natural gas service line by means of excavation as defined by KRS 367.4903(2)(6). The natural gas service line was not an underground facility owned and operated by Delta to serve the public as the damaged portion of the line was above ground.

2. Williams did not 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 because the nature of his work activities did not require it and because the pipe was damaged by an act of God prior to the date his work began.

3. Williams's failure to call 811, and thereby notify Delta as owner and operator of the service line was not the cause of the damage to the natural gas pipeline. Williams

did not use mechanized equipment, and all work was done by hand. The gas pipeline sustained the damage complained of prior to the time Williams commenced work.

4. No act or omission by Williams caused damage to the gas service line.

CONCLUSIONS OF LAW

1. Williams did not violate the requirements of KRS 367.4911(1)(a) by failing to provide the operator of an underground facility serving the public with notification of its intended work and work schedule not less than two nor more than ten full working days prior to commencing work as the type of work performed did not require it.

2. In as much as Williams did not damage the underground facility in question, it is not liable for imposition of a fine or civil penalty as a matter of law.

IT IS THEREFORE ORDERED that:

1. This case against Lonnie Williams and Son Excavating, LLC, is hereby DISMISSED WITH PREJUDICE and stricken from the docket.

THIS IS A FINAL AND APPEALABLE ORDER OF THE PUBLIC SERVICE COMMISSION.

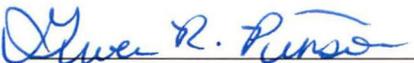
An application for a rehearing may be filed with the Commission within 20 days after service of this Order as provided by KRS 278.400. Any appeal of this Order must be filed with the Franklin Circuit Court within 30 days after service of this Order or within 20 days after an application for rehearing 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.

ENTERED
OCT 02 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2019-00161

Lonnie Williams and Son Excavating
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