

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PRECISION FLOORING & CARPENTRY,)	
LLC)	
)	
_____)	CASE NO.
)	2019-00164
)	
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE 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 a report 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 Precision Flooring & Carpentry, LLC, (Precision) 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 Precision 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. Precision 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. Precision shall appear on September 27, 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. A person shall not file a paper or appear at a hearing on behalf of, or otherwise represent, a partnership, corporation, or business entity (including a limited liability company) or another person unless the person is an attorney licensed to practice law in Kentucky.

4. The September 27, 2019 hearing shall be recorded by videotape only.

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

6. This Order shall be served via certified mail, return receipt accepted, to Precision Flooring & Carpentry, LLC, c/o Stephen T. Diel, as Agent for Service of Process, 1302 Oak Street, Shelbyville, Kentucky, 40065 and Stephen T. Diel 334 Ardmore Lane, Shelbyville, Kentucky, 40065.

By the Commission

ENTERED
AUG 27 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00164 DATED **AUG 27 2019**

ONE PAGE TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John Lyons	Incident ID 21170
Incident Date 11/26/2018 10:30:00 AM	Report Submitted 11/27/2018 11:29:00 AM

OPERATOR INFORMATION

Operator Atmos Energy Corporation Phone (270) 779-4849 Incident Location 518 Creekside Dr, Shelbyville 518 Creek Side Dr Shelbyville, KY 40065 Shelby	Reported By Anthony Stallins Email anthony.stallins@atmosenergy. Locate Ticket Number N/A
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EXCAVATOR INFORMATION

Name of Excavator Moore, Jeff Phone 502-938-8300 Excavator Address Rock Solid Foundations, LLC 409 Washington St Shelbyville, KY 40065	Organization ID 1005542 Email N/A Locate Ticket Number
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Operator reports that Rock Solid Foundations, working at 518 Creekside Dr in Shelbyville, hit a 3/4" PE service with a backhoe. According to Atmos' Senior Service Tech, Rock Solid Foundations was working without a locate ticket.

Investigator Lyons called the company on December 26, 2018 and talked to office assistant Suzanne. She confirmed that they had done a job at the address of the damage but that I would have to speak to Mr. Jeff Moore regarding the incident. Mr. Moore will return call. <http://www.rocksolid-ky.com/> 502-437-0056.

Investigator Lyons spoke with Mr. Moore on December 27, 2018. Mr. Moore alleged that Steve Diehl, Precision Flooring & Carpentry, LLC (active and in good standing with Secretary of State - 0851766 - 1302 Oak Street, Shelbyville, KY 40065) was supposed to take responsibility for all 811 locates; however, Mr. Moore was told that there were no facilities in the area of the excavation. Mr. Moore tried to get Mr. Diehl (502-220-8480) on a conference call to discuss the matter but was unsuccessful. Investigator Lyons relayed that it was acceptable if Mr. Diehl wanted to take responsibility for the damage but that if he did not, Rock Solid Foundations would be held responsible as the excavator.

Investigator Lyons called Mr. Diehl on December 28, 2018, and left a message for a call back.

Mr. Diehl returned call on January 2, 2019 and accepted responsibility for the incident. First time offender options were explained. A representative from Precision Flooring & Carpentry will attend the February 4, 2019, Damage Prevention training. Correct address for the company is 334 Ardmore Lane, Shelbyville, KY 40065.

Violation(s)

KRS 365.4911(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.

Steve Diehl
Precision Flooring & Carpentry, LLC
1302 Oak Street
Shelbyville, KENTUCKY 40065