

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MICHAEL CULLUM

ALLEGED VIOLATION OF UNDERGROUND
FACILITY DAMAGE PREVENTION ACT

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CASE NO.
2019-00165

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 Michael Cullum (Mr. Cullum) violated KRS 367.4911(1)(a) on September 1, 2018, at approximately 12:11 p.m., at 500 10th Street, Dayton, Kentucky, when he conducted excavation 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 Duke Energy Kentucky, Inc. (Duke), which was used to serve the public. It is alleged that Mr. Cullum failed to call 811 within the time prescribed by the above statute or in fact at all prior to damaging the service line.

FINDINGS OF FACT

The testimony presented at the hearing by Investigator John Lyons and Mr. Cullum, as well as the exhibits filed in the record, establishes that:

1. Mr. Cullum was at the time the damage occurred on September 1, 2018, an excavator as defined by KRS 367.4903(4) who caused 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 an underground facility owned and operated by Duke to serve the public. The service line contained natural gas at the time it was damaged by Mr. Cullum.

2. Mr. Cullum admitted that he failed to 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 not less than two nor more than ten full working days prior to commencing work as required by KRS 367.4911(1)(a).

3. Mr. Cullum's excavation work was not emergency work within the scope of KRS 367.4907 or the definition of "Emergency" as defined in KRS 367.4903(7), and no exception to the call requirement is applicable to this case.

4. Mr. Cullum failed, when conducting excavation operations to hand dig or use non-intrusive means, to avoid damage to the underground facility in violation of KRS 367.4911(10).

5. There are no known mitigating factors that would merit the imposition of a fine less than the maximum provided by law. This violation is Mr. Cullum's first offense.

6. Mr. Cullum testified at the hearing that if provided the opportunity to attend a PSC sponsored training on November 4, 2019, at 1 p.m. Eastern Daylight Time, he would do so with the understanding that any penalty assessed against him would be reduced to a sum of \$100.

CONCLUSIONS OF LAW

1. Mr. Cullum violated KRS 367.4911(1)(a) in that he did not notify Duke of his proposed work and work schedule not less than two full workdays nor less than ten full workdays prior to commencement of work.

2. As a consequence, the approximate location of the underground facility was not marked, and Mr. Cullum struck and damaged it while using mechanized equipment in violation of KRS 367.4911(10).

3. Mr. Cullum is subject to a fine or civil penalty in the amount of \$1,250 for this violation by operation of KRS 367.4917(1) and KRS 367.4917(4).

IT IS THEREFORE ORDERED that:

1. Mr. Cullum is assessed a fine of \$1,250 for violation of KRS 367.4911(10) and KRS 367.4911(1)(a).

2. Mr. Cullum shall pay \$1,250 within 30 days of the date of this Order by cashier's check or money order payable to the Kentucky State Treasurer and mailed or delivered to the office of the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky 40602.

3. The PSC will hold a damage prevention training course at its offices located at 211 Sower Boulevard, Frankfort, Kentucky, on November 4, 2019, at 1 p.m. Eastern Daylight Time. If Mr. Cullum attends the above training course and pays on or before November 4, 2019, the sum of \$100, the additional sum of \$1,150 shall be vacated, and Mr. Cullum shall not be required to pay it. If Mr. Cullum either does not attend the training course or fails to pay the \$100 specified herein, the entire fine of \$1,250 will be immediately due and payable.

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

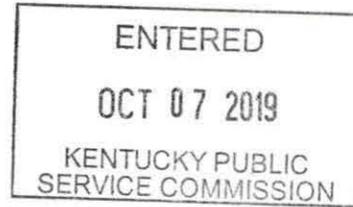
An application for a rehearing may be filed with the Commission within 20 days after service of this Order as provided by KRS 278.400. Any appeal of this Order must

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.

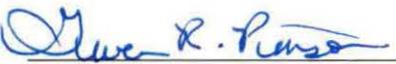
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By the Commission

Commissioner Talina Mathews did not participate in this case.



ATTEST:


Executive Director

Michael Cullum
500 10th Avenue
Dayton, KENTUCKY 41074