

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LINEMAN FARMS, LLC)

ALLEGED VIOLATION OF UNDERGROUND)
FACILITY DAMAGE PREVENTION ACT)

)
)
) CASE NO.
) 2019-00166
)

ORDER

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 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 an 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.

On August 29, 2018, Delta Natural Gas Company (Delta) reported to the Commission, pursuant to KRS 367.4909(4), excavation damage to its underground gas

pipeline, located at 780 East Brannon Road in Jessamine County, Kentucky. An employee of Lineman Farms, LLC (Lineman Farms), was performing work using an excavator on August 28, 2018, at 780 East Brannon Road, in Jessamine County, Kentucky, when the damage occurred. Commission Staff (Staff) conducted an investigation and determined that Lineman Farms had violated KRS 367.4911(10)¹ by failing to hand dig in the approximate location of an underground facility.

On February 15, 2019, Staff sent a Demand Letter to Lineman Farms in which it cited Lineman Farms for the violation and set forth a civil penalty of \$1,250, of which \$1,000 was suspended contingent upon completion of damage prevention training. A copy of the Demand Letter is attached to this Order as Appendix A. On May 6, 2019, a representative of Lineman Farms completed damage prevention training at the Commission's offices. Lineman Farms, however, failed to pay the penalty in accordance with the terms of the Demand Letter.

The Commission initiated this proceeding when Lineman Farms failed to pay the remaining \$250 of the civil penalty. On August 12, 2019, the Commission received a check from Lineman Farms in the amount of \$250, representing payment of the penalty for this incident. The receipt of payment is attached to this order as an Appendix B.

The Commission finds that Lineman Farms has complied with the terms of the February 15, 2019 Demand Letter. The Commission further finds that this case should be closed.

¹ KRS 367.4911(10), when excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

The Commission, on its own motion, HEREBY ORDERS that this case is closed and removed from the Commission's docket.

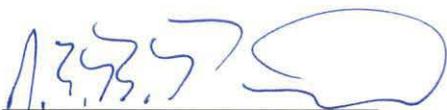
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By the Commission

Commissioner Talina Mathews did not participate in this case.

ENTERED
SEP 17 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

for 
Executive Director

Case No. 2019-00166

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00166 DATED **SEP 17 2019**

[TWO PAGES TO FOLLOW]



Matthew G. Bevin
Governor

Charles G. Snavely
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
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Michael J. Schmitt
Chairman

Robert Cicero
Vice Chairman

Talina R. Mathews
Commissioner

February 15, 2019

Mr. B. J. Quinn
Lineman Farms, LLC
680 Sellers Mill Rd
Versailles, KY 40383

Re: Violation of Kentucky Underground Facility Damage Prevention Act
Incident Number: **20869**

DEMAND FOR PENALTY ASSESSMENT AND REMEDIAL MEASURES

Dear Mr. Quinn:

The Kentucky Public Service Commission (Commission) received a report on August 29, 2018, regarding damage to a natural gas or hazardous liquid facility owned and/or operated by the Delta Natural Gas Company, Inc. Under the Kentucky Underground Facility Damage Prevention Act (Act), KRS 367.4901 through KRS 367.4917, the Commission has jurisdiction to investigate and assess civil penalties for any violation of the Act that results in excavation damage to underground facilities used to transport gas or hazardous liquid subject to federal pipeline safety laws, 49 U.S.C. secs. 60101 et seq. The Commission regulates the safety of jurisdictional natural gas pipelines in the Commonwealth pursuant to KRS 278.495 and 49 CFR Parts 190, 191, 192 and 195.

Following receipt of the damage notification, Commission Staff (Staff) performed an investigation of the incident and prepared the attached incident report. Based on its investigation of the incident, Staff has determined that Lineman Farms, LLC (Lineman) committed the following violation(s) of the Act:

- KRS 367.4911(10) - When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

CIVIL PENALTY

KRS 367.4917 provides that a person who commits a violation of the Act shall be subject to a civil penalty not to exceed \$250 for the first violation, \$1,000 for the second violation within one year, and \$3,000 for the third and any subsequent violation. If the violation results in damage to an underground pipeline used to transport gas or hazardous liquid, the violator is subject to an additional civil penalty not to exceed \$1,000 per violation. Based on its investigation of this matter, Staff has determined that Lineman should be assessed a penalty in the total amount of \$1,250, first offense, but that \$1,000 of the penalty should be suspended contingent upon completion of the following remedial measure:

REMEDIAL MEASURE

- A representative of Linemanshall attend a Damage Prevention training course to be held at the offices of the Commission, 211 Sower Blvd. in Frankfort, Kentucky, 40602 on May 6, 2019. The course will begin at 1:00 p.m. and conclude at 3:00 p.m.

If Lineman does not wish to contest the proposed penalty, Lineman should mail or deliver a cashier's check or money order made payable to the "**Kentucky State Treasurer**", within 30 days of the date of this letter, to:

Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

Please include the Incident Number **20869** on the cashier's check or money order submitted for payment.

Payment of the proposed civil penalty and completion of the remedial measure will satisfy and resolve any and all claims against Lineman for any violation of the Act arising out of the August 28, 2018 incident. Lineman's payment of the proposed civil penalty will not be considered an admission by (Excavator) that it willfully violated any provision of the Act.

If Lineman does not pay the proposed civil penalty within 30 days of the date of this letter, the Commission will institute an administrative proceeding against Lineman and hold a formal hearing during which Lineman will have an opportunity to present evidence and show cause why it should not be assessed penalties under KRS 367.4917 as a result of the August 28, 2018 incident.

If you have any questions regarding this demand for remedial measures and penalty assessment, please contact Michael Nantz, Division of Inspections at 502-782-2602.

Sincerely



John S. Lyons
Deputy Executive Director
Kentucky Public Service Commission

Attachment

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00166 DATED **SEP 17 2019**

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIPT OF PAYMENT

This is to acknowledge receipt of check 3561 for \$250.00 payable to Kentucky State Treasurer on August 12, 2019 from Lineman Farms, LLC. The check represents payment of penalty as set out in the Demand Letter of February 15, 2019 - Incident #20869.



Gwen R. Pinson
Executive Director
Dated August 12, 2019

B.J. Quinn
Lineman Farms, LLC
680 Sellers Mill Rd,
Versailles, KENTUCKY 40383