

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY TREE, LLC

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ALLEGED VIOLATION OF UNDERGROUND  
FACILITY DAMAGE PREVENTION ACT

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CASE NO.  
2019-00303

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 of a report of excavation damage to its underground gas pipeline from an operator, 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 Kentucky Tree, LLC (Kentucky Tree), 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 Kentucky Tree 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. Kentucky Tree shall submit to the Commission a written response to the allegations contained in the Staff Incident Report on or before October 21, 2019.
2. Kentucky Tree shall appear on November 22, 2019, at 9 a.m., Eastern Standard 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 other person unless the person is an attorney licensed to practice law in Kentucky.

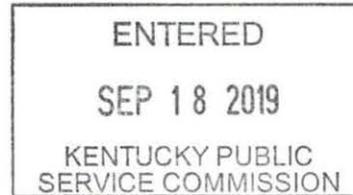
4. The November 22, 2019 hearing shall be recorded by videotape only.

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, on Kentucky Tree, LLC, c/o Kenneth Jones, as Registered Agent for Service of Process, at 1500 West Moody Lane, Crestwood, Kentucky 40014, and Post Office Box 863, Prospect, Kentucky 40059.

By the Commission

Commissioner Talina Mathews did not participate in this case.



ATTEST:

  
Executive Director

Case No. 2019-00303

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00303 DATED **SEP 18 2019**

ONE PAGE TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

<b>KY PSC Investigator(s)</b> Eric V. Tout	<b>Incident ID</b> 21259
<b>Incident Date</b> 11/29/2018 10:56:00 AM	<b>Report Submitted</b> 12/29/2018 11:50:54 AM

## OPERATOR INFORMATION

<b>Operator</b> Louisville Gas and Electric Company <b>Phone</b> (502) 364-8281 <b>Incident Location</b> 2418 Irish Bend Ct Fisherville, KY 40023  Spencer	<b>Reported By</b> Mike Jones <b>Email</b> Mike.Jones@lge-KU.com <b>Locate Ticket Number</b> n/a
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## EXCAVATOR INFORMATION

<b>Name of Excavator</b> Jones, Kenny <b>Phone</b> 502-643-0829 <b>Excavator Address</b> Kentucky Tree 1500 W Moody Ln Crestwood, KY 40014	<b>Organization ID</b> 0784209 Active/Good <b>Email</b> <b>Locate Ticket Number</b>
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### Incident

The Operator reports that the Excavator was excavating with a backhoe when a 1/2" plastic gas service was damaged and no call was made to the Protection Notification Center (811).

### Investigation

On 06/24/19, 07/01/19, 07/02/19 and 07/03/19 voice messages were left with no return call as of today's date and on the second and third it was explained that if no response is received a Demand Letter would be sent requiring the penalty payment of \$1,250.00.

### 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.

Kentucky Tree LLC  
P.O. Box 863  
Prospect, KENTUCKY 40059

Kentucky Tree LLC Registered Agent, Kenneth L.  
1500 W. Moody Ln.  
Crestwood, KENTUCKY 40014