

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY TREE, LLC)

_____)

ALLEGED VIOLATION OF UNDERGROUND)
FACILITY DAMAGE PREVENTION ACT)

CASE NO.
2019-00303

ORDER

A hearing was held before the Kentucky Public Service Commission (PSC) on November 22, 2019, at its offices at 211 Sower Boulevard, Frankfort, Kentucky, concerning the allegation that Kentucky Tree, LLC (Kentucky Tree) violated KRS 367.4911(1)(a) on November 29, 2018, at 2418 Irish Bend Court, Fisherville, Kentucky 40023, when it damaged a natural gas pipeline while conducting excavation operations without making a line location request to the One Call Center.

Evidence for the Division of Inspections consisted of the testimony of Eric Tout, who conducted an investigation of the line strike that damaged the Louisville Gas and Electric Company's (LG&E) natural gas pipeline on November 29, 2018, at 2418 Irish Court, Fisherville, Kentucky. According to Mr. Tout, Mike Jones, an employee of LG&E, furnished a report of the damage. There is no evidence that Mr. Jones was on-site at the time the incident took place. Mr. Jones reported that according to the testimony of Mr. Tout and as stated by Mr. Jones in the investigative report (Exhibit 1), "the excavator was excavating with a backhoe when a ½ inch plastic gas service line was damaged and no call was made to the Protection Notification Center (811)."

Testifying on behalf of Kentucky Tree were Renee Jones, who owns the company along with her husband, and Tobin Walling, a Kentucky Tree employee on-site at the time the damage occurred. Ms. Jones testified that Kentucky Tree was operating as a subcontractor for a company known as Elite Homes, which was building a residential subdivision at the location in question. Ms. Jones further testified that Kentucky Tree did not own either a backhoe or a trackhoe and was not engaged in trenching operations at the time the line was damaged. Mr. Walling was present at the location where and when the damage occurred and said that he was using a jackhammer and at no time operated a backhoe or any trenching device. Mr. Walling further testified that an employee of another subcontractor was conducting trenching operations with a backhoe and struck the natural gas service line while doing so. Mr. Walling denied either operating the backhoe or causing damage to the service line.

No eyewitnesses or other first-hand testimony or documentation was presented to contradict Renee Jones's and Tobin Walling's testimony, which was that Kentucky Tree did not own a trenching machine and did not cause the reported damage.

FINDINGS OF FACT

1. Based on the testimony presented at the hearing the Commission finds that the damage to the LG&E natural gas service line on November 29, 2018, at 2418 Irish Bend Court, Fisherville, Kentucky, was not caused by any act or omission of Kentucky Tree, but was the result of an act of a third party; the identity of which is unknown.

CONCLUSION OF LAW

Kentucky Tree is not legally responsible for the damage to the LG&E natural gas service line, which is the subject matter of this administrative action.

It is THEREFORE ORDERED that this case be and is hereby dismissed with prejudice and stricken from the agency docket on this the 25th day of November 2019.

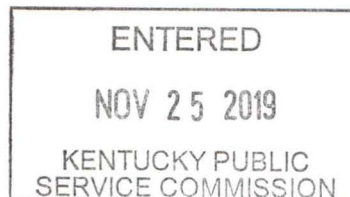
THIS IS A FINAL AND APPEALABLE ORDER OF THE PUBLIC SERVICE COMMISSION.

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

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