

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JONATHAN HYLTON)	
)	
_____)	CASE NO.
)	2019-00160
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 Jonathan Hylton 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 Jonathan Hylton 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. Jonathan Hylton 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. Jonathan Hylton 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. The September 27, 2019, hearing shall be recorded by videotape only.

4. A person shall not file a paper or appear at a hearing on behalf of, or otherwise represent, a partnership, corporation, business entity or another person unless the person is an attorney licensed to practice law in Kentucky.

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

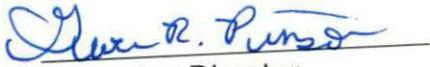
6. This Order shall be served via certified mail, return receipt accepted, to Jonathan Hylton, 45 Fox Fire Road, Salt Lick, Kentucky, 40371-8680.

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By the Commission



ATTEST:


Executive Director

Case No. 2019-00160

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00160 DATED **AUG 27 2019**

TWO PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) jASON WHISMAN	Incident ID 20802
Incident Date 8/9/2018 12:55:00 PM	Report Submitted 8/13/2018 1:16:20 PM

OPERATOR INFORMATION

Operator Delta Natural Gas Company, Inc. Phone 859-744-6171 ext. 1160 Incident Location 94 Fraley Road 94 Fraley Rd Salt Lick, KY 40371 Bath	Reported By Mary Virginia Rupard Email mvrupard@deltagas.com Locate Ticket Number
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EXCAVATOR INFORMATION

Name of Excavator Jonathan, Hylton Phone 606-210-1609 Excavator Address 340 Main Street - Lot # 5 Salt Lick, KY 40371	Organization ID Email Locate Ticket Number
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Excavation Damage Report to PSC: No notification made to the One Call Center

Description of Incident Jonathan Hylton was using a backhoe to repair a water line leak for Ina Lee Johnson when he hit and punctured a 3/4-inch plastic service line.

Summary Information

8/24/2018

Full details such as the cause - Mr. Hylton did not call 811 to request a line location prior to excavating. Mrs. Johnson did call Delta at 12:30 p.m. that day to request a line location. Delta employees were in route to the site when the contractor hit and punctured the service line.

Extent of the damage - There were no injuries or property damage attributable to this incident. Delta employees replaced two feet of 3/4-inch plastic service line and installed two permasert couplings.

Cost of the damage - \$173.00

Steps taken to prevent re-occurrence - Mr. Hylton and Mrs. Johnson were advised that the law requires anyone that is going to do any type of excavation work to call 811 to request a line location at least two working days prior to starting work. They were also told that when excavation is necessary within the approximate location of the pipeline (18-inches on either side) the law requires hand digging or using non-intrusive means to avoid damage to the pipeline.

Amount billed to excavator - \$0.00

Investigation Summary:

I called the number for the excavator on the report. There was no answer and the voicemail was not set up yet per the recording (11/1/18 9:53am). I called again on 11/9/18 at 8:30 am and there again was no answer or opportunity to leave a voicemail. I called a number I got from the white pages for a landline, it was disconnected. 606-743-9970 (I am not positive this was same Jonathan Hylton, but was trying.) I contacted the land owner, Ina Lee Johnson (6906-683-9934) and she did not have any contact information for Mr. Hylton.

Info from OGC:

Jonathan Earsel Hylton

45 Fox Fire Road (Accurint, Oct. 2018)

Salt Lick, KY 40371-8680 (606) 743-3049 (probably a West Liberty phone number) divorced from Lori

(driver's license issued 2017 and attached warrant both have 213 Reeves Lane, Salt Lick)

I called the new number provided by OGC on 11/15/18 and no answer, no voicemail.

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.

Johnathan Hylton
45 Fox Fire Road
Salt Lick, KENTUCKY 40371