

COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION

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In the Matter of:

BLUE JAY COMMUNICATIONS, INC.	)	
	)	
_____	)	CASE NO.
	)	2019-00278
ALLEGED VIOLATION OF UNDERGROUND	)	
FACILITY DAMAGE PREVENTION ACT	)	

**RESPONSE OF BLUE JAY COMMUNICATIONS, INC.**

Blue Jay Communications, Inc. (“Blue Jay”) states as follows as its response to the August 27, 2019 order (the “Order”) of the Kentucky Public Service Commission (the “Commission”):

The Commission orders Blue Jay to submit a response to the Staff Incident Report No. 21177 attached to the Order (the “Report”). The Report alleges that Blue Jay violated KRS Section 367.4911(10) which states:

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 Report alleges that Blue Jay damaged a Louisville Gas & Electric Company (“LG&E”) natural gas line while boring for a communications line. The incident occurred on October 31, 2018.

Blue Jay does not dispute the Commission’s jurisdiction over this matter or its authority to investigate and assess civil penalties for violation of the Kentucky Underground Facility Damage Prevention Act, KRS Sections 367.4901 through

367.4917. Blue Jay also does not dispute that the gas line was damaged. Blue Jay does, however, dispute that it violated the law.

Pete Larkin, underground coordinator for Blue Jay, also investigated the incident and concluded the following:

1. At the time of the incident, Blue Jay was conducting horizontal drilling for a communication line.
2. Former Blue Jay employee Morgan Knox was the excavator at the time of the incident.
3. Prior to excavation, Blue Jay contacted the appropriate notification protection center as required by KRS Section 367.4911(1)(a).
4. The area of the gas line was properly marked.
5. Blue Jay's policy requires the digging of test holes prior to horizontal drilling. Mr. Knox was required to take photographs before and after completion of the work to ensure that this policy was followed and the work properly done.
6. Based upon Mr. Larkin's discussions with Mr. Knox, Blue Jay believes Mr. Knox dug test holes and took the required photographs; however, Blue Jay has not been able to locate those photographs.
7. Through its training program, Blue Jay employees were instructed to follow all statutory requirements, particularly where encountering marked utilities. Mr. Knox was trained to hand dig or use other non-intrusive means in areas marked for underground facilities.
8. The boring head traveled to the appropriate depth for communications installation, and then damaged the gas line facility. Based upon his investigation,

Mr. Larkin concluded that the facility was closer to the surface than believed by Mr. Knox. Rock formation in the area likely caused this shallow location of the facility in the contact area.

9. Had the facility been buried at the expected depth, it would not have been contacted by the bore head.
10. LG&E has not made any demands for payment by Blue Jay related to the damaged gas line.

Mr. Larkin is expected to be Blue Jay's main witness at any hearing. Unfortunately, he was hospitalized on September 11, 2019, and is likely to be unavailable for the scheduled September 27 hearing. Once Blue Jay determines Mr. Larkin's future availability, it will promptly notify the Commission.

For the foregoing reasons, Blue Jay Communications, Inc., requests a determination by the Commission that it complied with the Kentucky Underground Facility Damage Prevention Act, particularly KRS Section 367.4911(1)(a) and that there was no violation of the Act as alleged in Incident Report No. 21177.



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**CERTIFICATE OF SERVICE**

I hereby certify that the original of this document was hand-delivered to the following:

Kentucky Public Service Commission  
ATTN: Gwen R. Pinson, Executive Director  
211 Sower Blvd  
P.O. Box 615  
Frankfort, Kentucky 40602

With a copy emailed to the Commission's counsel, John Browning Park at John.Park@ky.gov.

On this 16<sup>th</sup> day of September 2019.

  
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*Attorney for Blue Jay Communications, Inc.*