

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BLUE JAY COMMUNICATIONS, INC.)
)
_____)
)
ALLEGED VIOLATION OF UNDERGROUND)
FACILITY DAMAGE PREVENTION ACT)

CASE NO.
2019-00278

ORDER

This matter arises upon the response of Blue Jay Communications, Inc. (Blue Jay), to a Commission Order. On August 27, 2017, the Commission initiated this proceeding, finding *prima facie* evidence that Blue Jay violated the Underground Facility Damage Prevention Act¹ and that a formal investigation into the excavation damage incident should be conducted. Blue Jay was ordered to submit a written response to the Commission and to appear on September 27, 2019, at a hearing to present evidence concerning the alleged violation and to show cause why it should not be subject to the penalties prescribed in KRS 367.4917(1) and (4) for the alleged violation.

On September 16, 2019, Blue Jay filed its response by and through counsel and requested a determination by the Commission that it complied with the Kentucky Underground Facility Damage Prevention Act and that there was no violation of the Act as alleged in Incident Report no. 21177. The Commission finds that Blue Jay's request should be denied.

¹ KRS 367.4901 to 367.4917.

In its September 16, 2019 response, Blue Jay stated that it required the testimony of Mr. Peter Larkin to properly show cause why Blue Jay should not be subjected to the aforementioned penalties. Blue Jay further stated Mr. Larkin had been hospitalized on September 11, 2019, and would not likely be available to testify at the scheduled hearing on September 27, 2019.

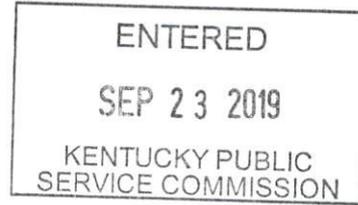
Based on the response and the case record, and being otherwise sufficiently advised, the Commission finds that this matter should be continued until the Commission's next regularly scheduled Damage Prevention hearing on November 22, 2019, at 9 a.m., Eastern Standard Time.

IT IS HEREBY ORDERED that:

1. Blue Jay's request for a determination that it complied with the Kentucky Underground Facility Damage Prevention Act is denied.
2. The hearing scheduled for September 27, 2019, is continued until November 22, 2019.
3. Blue Jay 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, Frankfort, Kentucky.

By the Commission

Commissioner Talina Mathews did not participate in this case.



ATTEST:


Executive Director

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