

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY FRONTIER GAS, LLC)	
)	
_____)	CASE NOS.
)	2019-00315
ALLEGED VIOLATION OF UNDERGROUND)	2019-00316
FACILITY DAMAGE PREVENTION ACT)	2019-00323
)	2019-00324

COMMISSION STAFF'S RESPONSE TO PETITION

On March 3, 2020, the Commission entered a final order in the above-captioned cases. On March 23, 2020, Kentucky Frontier Gas, LLC (Frontier), filed a petition for rehearing (Petition) of the final order pursuant to KRS 278.400. On April 1, 2020, Frontier and the Commission's Division of Inspections (DOI) submitted a joint stipulation as to a further briefing schedule. Pursuant to the joint stipulation, DOI submits this response to Frontier's Petition.

In its Petition, Frontier requests rehearing and reconsideration of the Commission's final order with respect to two pairs of cases, Case Nos. 2019-00315 and 2019-00316, and Case Nos. 2019-00323 and 2019-00324. Frontier argues that the excavation damage incidents at issue in each of these pairs of cases involved the same facility locate request and the same failure to mark the approximate location of the underground line.

DOI notes that this issue was not raised in the parties' joint stipulation regarding common issues and facts. Nor was testimony presented at the hearing regarding the specific incidents at issue in these cases. The Commission in its March 3, 2020 Order

stated that the facts upon which its decision would be based “were to be found solely in the stipulations and the testimony of witnesses” at the hearing.¹

DOI acknowledges that an operator’s breach of its statutory duty to mark in response to a single locate request can result in multiple incidents of excavation damage. DOI also acknowledges that KRS 367.4917(1) provides that an operator is subject to assessment of a civil penalty for each “offense,” not for each incident of excavation damage.

Respectfully submitted,



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¹ Case No. 2019-00280 *et.al*, (Ky. PSC March 3, 2019), at 23 n.35.

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