

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY FRONTIER GAS, LLC)
)
_____)
)
ALLEGED VIOLATION OF UNDERGROUND)
FACILITY DAMAGE PREVENTION ACT)

CASE NO.
2019-00323

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 of a report of excavation damage to its underground gas pipeline from an operator, 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 for incident number 31516, Staff cites Kentucky Frontier Gas, LLC (Kentucky Frontier) for violation of the following provisions of the Act:

KRS 367.4909(6)(a) - An operator shall, upon receiving an emergency locate request or a normal excavation locate request inform the excavator of the approximate location and the description of any of the operator's facilities that may be damaged or pose a safety concern because of excavation or demolition.

KRS 367.4909(6)(c) - Unless permanent facility markers are provided, provide temporary markings to inform the excavator of the ownership and approximate location of the underground facility

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that Kentucky Frontier 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. Kentucky Frontier 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. Kentucky Frontier shall appear on November 8, 2019, at 9 a.m., Eastern Standard 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. A person shall not file a paper or appear at a hearing on behalf of, or otherwise represent, a partnership, corporation, or business entity (including a limited liability company) or other person unless the person is an attorney licensed to practice law in Kentucky.

4. The November 8, 2019 hearing shall be recorded by video only.

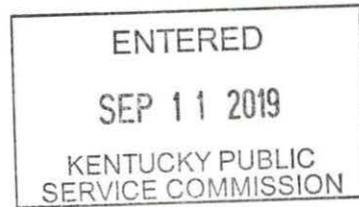
5. The Staff Incident Report in the Appendix to this Order is made a part of the record in this case.

6. This Order shall be served via certified mail, return receipt accepted, to CT Corporation System, 306 West Main Street, Suite 512, Frankfort, Kentucky 40601.

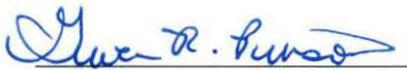
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By the Commission

Commissioner Talina Mathews did not participate in this case.



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00323 DATED **SEP 11 2019**

TWO PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 31516
Incident Date 3/28/2019 5:33:00 PM	Report Submitted 4/25/2019 1:17:54 PM

OPERATOR INFORMATION

Operator Kentucky Frontier Gas, LLC	Reported By Heather Music
Phone 606-886-2431 ext.: 100	Email hmusic@kyfrontiergas.com
Incident Location 37.76284 -83.08919 Elk Creek Road Salyersville, KY 41465 Magoffin	Locate Ticket Number 1903180293

EXCAVATOR INFORMATION

Name of Excavator Conley, Bret	Organization ID
Phone 606-349-1933	Email bconley1963@gmail.com
Excavator Address L&L Excavating 111 Brad Dr. Salyersville, KY 41465	Locate Ticket Number

INCIDENT

During an ongoing sewer line job, the construction company was boring under the main road to do a crossing. Their equipment hit a 3" PE main line of KFG's that was alongside the roadway, causing damage resulting in the release of gas. KFG techs responded to an 811 for this area and informed the contractor that there were lines alongside the roadway but did not put down actual marks due to not being able to locate within the tolerance zone of 18 inches on each side.

INVESTIGATION

L & L Excavation and Site Prep, Inc. is a Kentucky corporation that is active and in good standing with the Secretary of State's office.

May 20, 2019

- Left message for Brad Lyon, owner, to call me back.
- He called me back. He said that KFG did not mark any lines, because they didn't know where they were. He said their approach is that they will mark it when the excavator finds it.

July 2, 2019 held a conference call with Mike Harris, Heather Music, and Steve Shute of Kentucky Frontier Gas, LLC. The discussion revolved around interpretations of the statute language. Mr. Lyons of KPSC explained the perspective of the damage prevention program per the statute. KFG personnel agreed to review the summary of the 13 incidents provided to them and to respond.

VIOLATION

- KRS 367.4909 (6) (a) An operator shall, upon receiving an emergency locate request or a normal excavation locate request inform the excavator of the approximate location and description of any of the operator's facilities that may be damaged or pose a safety concern because of excavation or demolition.
- KRS 367.4909 (6) (c) An operator shall, upon receiving an emergency locate request or a normal excavation locate request unless permanent facility markers are provided, provide temporary markings to inform the excavator of the ownership and approximate location of the underground facility.

CT Corporation System Register Agent
Kentucky Frontier Gas, LLC
306 W Main Street, Suite 512
Frankfort, KENTUCKY 40601

*Honorable John N Hughes
Attorney at Law
124 West Todd Street
Frankfort, KENTUCKY 40601

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