

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE LANDSCAPING AND EXCAVATION,)
LLC)
)
_____)
)
ALLEGED VIOLATION OF UNDERGROUND)
FACILITY DAMAGE PREVENTION ACT)

CASE NO.
2019-00337

OPENING ORDER

Louisville Landscaping and Excavation, LLC (Louisville Landscaping and Excavation) has been named as a party to an investigation before the Kentucky Public Service Commission (Commission) for allegedly violating the Kentucky Underground Facility Damage Prevention Act (Act).¹

Pursuant to KRS 278.495(2), the Commission has jurisdiction to regulate the safety of natural gas facilities in Kentucky and to enforce minimum federal pipeline safety standards. Under the Act, 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

¹ KRS 367.4901 through KRS 367.4917.

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, Staff cites Louisville Landscaping and Excavation for violation of the following provision of the Act:

KRS 367.4911(8) – The excavator shall contact the protection notification center to request remarking two (2) working days in advance of the expiration of each twenty-one (21) day period while excavation or demolition continues

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that Louisville Landscaping and Excavation 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. Louisville Landscaping and Excavation shall submit to the Commission a written response to the allegations contained in the Staff Incident Report within 20 days of receipt of this Order.
2. Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.

3. The Staff Incident Report 31284 in the Appendix to this Order is made a part of the record in this case.

4. **Please note that notice of a hearing to be held in this matter will be mailed to Louisville Landscaping and Excavation once proof of service is received by the Commission. Parties who fail to appear after service will be subject to entry of a default judgment against them.**

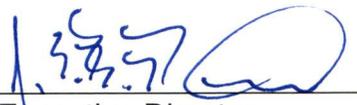
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By the Commission

Commissioner Talina Mathews did not participate in this case.



ATTEST:



Executive Director
for Amber R. Pinson

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00337 DATED **NOV 15 2019**

FOUR PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 31284
Incident Date 12/16/2018 3:15:00 PM	Report Submitted 1/15/2019 11:46:19 AM

OPERATOR INFORMATION

Operator Louisville Gas and Electric Company	Reported By Mike Jones
Phone (502) 364-8281	Email Mike.Jones@lge-KU.com
Incident Location 4207 Chenoweth Run Rd Louisville, KY 40299 Jefferson	Locate Ticket Number 1811200231

EXCAVATOR INFORMATION

Name of Excavator Thomas, Adam	Organization ID
Phone 502-693-1625	Email
Excavator Address Louisville Landscaping & Excavation 7804 Appleview Ln Louisville, KY 40228	Locate Ticket Number

INCIDENT

Excavator had a locate request which was completed but had expired 6 days previous to the damage; there was not an additional request or a 2nd issuance of the original request; excavator dug on expired locate request.

INVESTIGATION

Louisville Landscaping & Excavation, LLC, is a Kentucky limited liability company that is inactive and in bad standing with the Secretary of State's office.

This will be the company's first violation.

July 3, 2019 called the above number, left a voicemail.

July 10, 2019 called the above number, message was that this person was not taking calls at this time, please try again later. Decision made to send demand letter.

VIOLATION

KRS 367.4911 (8) The excavator shall contact the protection notification center to request remarking two (2) working days in advance of the expiration of each twenty-one (21) day period while excavation or demolition continues.

Gas Excavation Damage Report

Louisville Gas and Electric Company

Submitted 1/15/2019 Incident ID: 31284

[Set back to Edit](#) | [Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=31284\)](#)

Reported By:

Name: Mike Jones
Phone: (502) 364-8281
Email: Mike.Jones@lge-KU.com

Gas Line Incident Occured:

Date: 12/16/2018
Time: 3:15 PM

Details:

Reported Date: 1/15/2019 11:46 AM

Incident Location Address:

Location:
Address: 4207 Chenoweth Run Rd
City: Louisville
State: KY
County: Jefferson
Zip: 40299
Confirm Code: Y
Number of Customers out: 1
Locate Request Ticket No.: 1811200231
Excavator: Contractor

Excavator Address:

First Name: Adam
Last Name: Thomas
Organization ID:
Company: Louisville Landscaping and Excavation
Phone: 502-693-1625
Email:
Address: 7804 Appleview Ln
City: Louisville
State: KY
Zip: 40228

Confirm Code: Y

Excavation Damage: One Call notification practices not sufficient

Description of Incident Excavator broke service while removing drainage pipe under driveway?.

Summary Information

1/15/2019

Full details such as the cause	Excavator had a locate request which was completed but had expired 6 days previous to the damage; there was not an additional request or a 2nd issuance of the original request; excavator dug on expired locate request.
Extent of the damage	1/2" plastic service
Cost of the damage	\$331.00
Steps taken to prevent re-occurrence	Education to the excavator about the dig law.
Amount billed to excavator	\$0.00

NORMAL NOTICE SEE REMARKS

Ticket : 1811200231 Date: 11/20/2018 Time: 08:29 Oper: KMURRAY Chan:000

State: KY Cnty: JEFFERSON City: LOUISVILLE
Subdivision:

Address : 4207

Street : CHENOWETH RUN RD

Cross 1 : SARATOGA HILL RD

Location: LOCATE THE ENTIRE PROPERTY - TO INCLUDE LOCATING BOTH SIDES OF THE
ROAD

:

Boundary: n 38.182720 s 38.178030 w -85.551437 e -85.548889

Work type : DITCHING/DRAINAGE/CULVERT/DEMO/DRIVEWAY REPAIR/GARAGE CONSTRUCTION

Done for : HOMEOWNER

Start date: 11/26/2018 Time: 08:45 Hours notice: 144/48 Priority: NORM

Ug/Oh/Both: U Blasting: NO

Emergency: N

Duration : N/A

Depth: 6 FEET

Company : LOUISVILLE LANDSCAPING AND EXCAVATING LL Type: OTHR

Co addr : 4412 RIVER ROAD

City : LOUISVILLE State: KY Zip: 40222

Caller : ADAM THOMAS Phone: (502)693-1625

Contact : ADAM THOMAS - CELL Phone:

Mobile : (502)693-1625

Email : ADAMLOUISVILLELANDSCAPING@GMAIL.COM

Remarks : SECONDARY CONTACT MIKE SCHNEIDER CELL (502)594-9333

:

Submitted date: 11/20/2018 Time: 08:29

Members: 0002 0004 0006 0139

*Adam Thomas
8106 Adams Run Road
Louisville, KENTUCKY 40228

*Adam Thomas
7804 Appleview Ln.
Louisville, KENTUCKY 40228