

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DAMOINE LEE

ALLEGED VIOLATION OF UNDERGROUND
FACILITY DAMAGE PREVENTION ACT

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CASE NO.
2019-00409

OPENING ORDER

Damoine Lee (Mr. Lee) 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 results in damage to an underground facility containing any flammable, toxic, corrosive,

¹ KRS 367.4901 through KRS 367.4917.

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 Mr. Lee for violation of the following provision of the Act:

KRS 367.4911(1)(a) – Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full working days nor more than ten (10) full working days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that Mr. Lee 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:

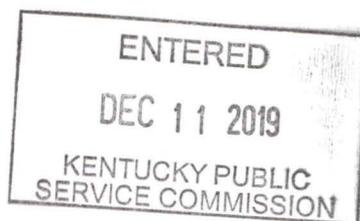
1. Mr. Lee shall submit to the Commission a written response to the allegations contained in the Staff Incident Report within 20 days of receipt of this Order.
2. Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.
3. The Staff Incident Report 31467 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 Mr. Lee 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 Gwen R. Pinson

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00409 DATED **DEC 11 2019**

FOUR PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 31467
Incident Date 3/13/2019 11:11:00 AM	Report Submitted 4/12/2019 11:07:33 AM

OPERATOR INFORMATION

Operator Louisville Gas and Electric Company Phone (502) 364-8281 Incident Location 335 S Shawnee Ter Louisville, KY 40212 Jefferson	Reported By Mike Jones Email Mike.Jones@lge-KU.com Locate Ticket Number n/a
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EXCAVATOR INFORMATION

Name of Excavator Lee, Damoine Phone 502-963-8063 Excavator Address 335 S Shawnee Ter. Louisville, KY 40212	Organization ID Email Locate Ticket Number
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INCIDENT

Locate Ticket Summary

Ticket #	Valid	Initial Date	Expiration Date (21 calendar days from Initial date)	Incident Date	# of Days Expired	Within Scope of Excavation
None	N/A	N/A	N/A	N/A	N/A	N/A

Excavation Summary

Excavation Within Tolerance Zone	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
N/A	N/A	\$166.00	\$0.00

The operator reports that the homeowner installing drainage in the rear of his property, damaged unmarked 1" plastic customer service. He assumed gas went to the front of the house, not the rear alley; locates not requested.

INVESTIGATION

This would be Mr. Lee's first violation.

August 22, 2019 spoke with Mr. Lee. He indicated that he was very familiar with the dig requirements as he is a master plumber, however he didn't think the gas line would go to his house from the rear of the property. He agreed to the reduced penalty and remedial measure.

VIOLATION

KRS 367.4911 (1) (a) Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full working days nor more than ten (10) full working days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.

Gas Excavation Damage Report

Louisville Gas and Electric Company

Submitted 4/12/2019 Incident ID: 31467

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

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=31467\)](#)

Reported By:

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

Gas Line Incident Occured:

Date: 3/13/2019
Time: 11:11 AM

Details:

Reported Date: 4/12/2019 11:07 AM

Incident Location Address:

Location:
Address: 335 S Shawnee Ter
City: Louisville
State: KY
County: Jefferson
Zip: 40212
Confirm Code: Y
Number of Customers out: 1
Locate Request Ticket No.: n/a
Excavator: Home Owner

Excavator Address:

First Name: Damoine
Last Name: Lee
Phone: 502-963-8063
Email:
Address: 335 S Shawnee Ter
City: Louisville
State: KY
Zip: 40212
Confirm Code: Y
Excavation Damage: No notification made to the One Call Center

Description of Incident Homeowner damaged service digging for drainage.

Summary Information

4/12/2019

Full details such as the cause	Homeowner installing drainage in the rear of his property, damaged unmarked 1" plastic customer service. He assumed gas went to the front of the house, not the rear alley; locates not requested.
Extent of the damage	1" plastic service
Cost of the damage	\$166.00
Steps taken to prevent re-occurrence	Gave Know What's Below Brochure and advised to always call before you dig; letter to be sent.
Amount billed to excavator	\$0.00

Damoine Lee
335 S. Shawnee Ter.
Louisville, KENTUCKY 40212