

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ALLAN CRAIG)	
)	
)	
_____)	CASE NO.
)	2021-00036
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

ORDER

A hearing was held before the Kentucky Public Service Commission (PSC) on April 23, 2021, at its offices at 211 Sower Boulevard, Frankfort, Kentucky, concerning the allegation that Allan Craig (Craig) violated KRS 367.4911(1)(a) when, on June 11, 2019, at approximately 10:30 A.M., at 560 West Martin Road in Campbellsville, Kentucky, he conducted excavation activities within the approximate location of an underground facility using mechanized equipment without first contacting the applicable protection notification center and thereby caused damage to an underground gas service line owned and operated by Atmos Energy Corporation which was used to serve the public and which contained natural gas at the time it was damaged. Craig was served with process and notified of the hearing date and time but failed to appear at the hearing to contest the violations.

Eric Tout, an investigator employed by the Commission's Division of Inspections, testified that his investigation found that Craig was operating a backhoe while installing gutter drains and failed to first contact the Protection Notification Center as required by

KRS 367.4911(1)(a). Mr. Craig admitted to Inspector Tout that no notification was given and that no dig ticket was obtained. The gas service line, according to Inspector Tout, contained natural gas at the time it was damaged.

The incident, which is the subject of this action, represents Craig's first violation of the Act and by reason thereof subjects him to a potential civil penalty of \$1,250 by operation of KRS 367.4917(1) and KRS 367.4917(4).

FINDINGS OF FACT

The testimony presented at the hearing as well as the exhibits filed in the record establish that:

1. Allan Craig, at the time the damage occurred on June 11, 2019, was an excavator as defined by KRS 367.4903(4) who caused damage to a natural gas service line by means of excavation as defined by KRS 367.4903(2) and (6). The natural gas service line was an underground facility owned and operated by Atmos Energy Corporation to serve the public. The service line contained natural gas at the time it was damaged by Craig.

2. Craig's excavation work was not emergency work within the scope of KRS 367.4907 or the definition of "Emergency" as defined in KRS 367.4903(7), and no exception to the call requirement is applicable to this case.

3. When conducting excavation operations, Craig failed to use non-intrusive means to avoid damage to the underground facility in violation of KRS 367.4911(10), and as a result of failing to call the protection notification center, conducted excavation operations without the utility having had the opportunity to mark its gas service line.

4. The incident which is the subject matter represents Craig's first violation of the Act.

5. There are no known mitigating factors which would merit the imposition of a fine less than the maximum provided by law. This violation is Craig's first offense.

CONCLUSIONS OF LAW

1. Allan Craig violated KRS 367.4911(1)(a) by failing to call the protection notification center prior to conducting excavation operations. Had a call been made, Atmos Energy Corporation would have located and physically marked the location of the gas service line as required by KRS 367.4909(6) and (9).

2. Allan Craig at the time he damaged the natural gas service line was conducting excavation activities. "Excavation" is defined by KRS 367.4903(6) as "any activity that results in the movement, placement, probing, boring, or removal of earth, rock, or other material in or on the ground by the use of any tools or equipment. . . . Forms of excavating include but are not limited to auguring, backfilling, digging, ditching, drilling, driving, grading, piling, pulling-in, ripping, scraping, trenching, and tunneling."

3. Craig's work activities were within the approximate location of the natural gas service line at the time it caused the pipeline damage, and such work activities were conducted by the use of mechanized equipment as defined by KRS 367.4903(14). Craig was required to hand dig or use nonintrusive means to prevent damage to the pipeline while excavating within the approximate location of the service line.

4. The failure to call the protection notification center prior to commencing excavation operations so that the gas service line could be located and the location

marked by Atmos Energy Corporation was a substantial factor in causing damage to the natural gas pipeline.

IT IS THEREFORE ORDERED that:

1. Allan Craig is assessed a fine of One Thousand Two Hundred Fifty Dollars (\$1,250) for violation of KRS 367.4911(1)(a).

2. Allan Craig shall pay One Thousand Two Hundred Fifty Dollars (\$1,250) within 30 (thirty) days of the date of this order by cashier's check or money order payable to the Kentucky State Treasurer and mailed or delivered to the office of the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky 40602.

THIS IS A FINAL AND APPEALABLE ORDER OF THE PUBLIC SERVICE COMMISSION.

An application for a Rehearing may be filed with the Commission within 20 days after service of this Order as provided by KRS 278.400. Any Appeal of this Order must be filed within the Franklin Circuit Court within 30 days after service of this Order or within 20 days after an application for Rehearing has been denied by failure of the Commission to act or, within 20 days after service of the final Order, as set out in KRS 278.410.

By the Commission

ENTERED
MAY 14 2021 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director for

Case No. 2021-00036

Allan Craig
48 Lakeway Ave
Campbellsville, KENTUCKY 42718