

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BEN HODGES

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ALLEGED VIOLATION OF UNDERGROUND  
FACILITY DAMAGE PREVENTION ACT

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CASE NO.  
2021-00069

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 Ben Hodges violated KRS 367.4911(1)(a), (the Underground Facility Damage Prevention Act, hereinafter the "Act"), on August 28, 2020, at approximately 9:30 a.m., at 387 Oakwood Lane, Leitchfield, Kentucky when he damaged a natural gas pipeline without making a line location request to the One Call Center within 21 calendar days of the excavation. Hodges was served with process and notified of the hearing date and time and appeared at the hearing but did not contest the allegations against him and admitted that at the above location, date, and time, he damaged a Leitchfield Gas Company natural gas service line by operating mechanized equipment and that the said natural gas service line contained natural gas at the time it was damaged. Mr. Hodges admitted that he failed to make a line location request to the One Call Center within 21 days prior to conducting excavation activities.

## FINDINGS OF FACT

The testimony presented at the hearing as well as the exhibits filed in the record stand un rebutted and establish that:

1. Mr. Hodges, at the time the damage occurred on August 28, 2020, 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 Leitchfield Gas Company to serve the public. The service line contained natural gas at the time it was damaged by Mr. Hodges.

2. Mr. Hodges failed to call the Kentucky Contact Center (One Call Center or Protection Notification Center) to obtain information about the approximate location of the damaged natural gas service line not less than two nor more than ten full working days prior to commencing work as required by KRS 367.4911(1)(a).

3. Mr. Hodges, as a result of failing to call 811 within the times required by KRS 367.4911(1)(a), operated mechanized equipment within the approximate location of an underground natural gas line thereby striking and causing damage thereto.

4. Mr. Hodges'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.

5. The damage caused by Hodges represents his first violation of the Act.

6. There are no known mitigating factors which would merit the imposition of a fine less than the maximum provided by law.

## CONCLUSIONS OF LAW

1. Ben Hodges violated the provisions of the Act as set out in KRS 367.4911(1)(a).

2. KRS 367.4917(1) provides that an excavator who fails to comply with any provision of KRS 367.4911 shall be guilty of endangering underground facilities and may be subject to a fine of \$250 for the first offense.

3. KRS 367.4917(4) provides that any person who violates any provision of the Act that involves damage to a facility containing any flammable, toxic, corrosive, or hazardous material or results in the release of any flammable, toxic, corrosive, or hazardous material shall be subject to a fine not to exceed \$1,000 for each offense.

4. Ben Hodges, by reason of his failure to comply with the applicable provisions of Underground Facility Damage Prevention Act as hereinbefore set out, is subject to the maximum fine of \$1,250.

IT IS THEREFORE ORDERED that:

1. Ben Hodges is assessed a fine of \$1,250 for violation of KRS 367.4911(1)(a) for failure to provide the Leitchfield Gas Company, the operator of an underground facility serving the public, with notification of his intended work and work schedule not less than two nor more than ten full working days prior to commencing work.

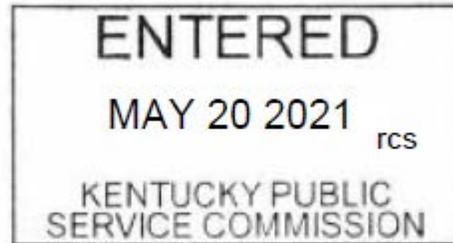
2. Ben Hodges shall pay \$1,250 within 30 days of the date of this Order by cashier's check or money order payable to the Kentucky State Treasurer and mailed or delivered to the office of the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky 40601.

3. As a first time violator of the Act, Ben Hodges is eligible for mitigation of penalty as established by the Division of Inspections informal policy and past practice by making a payment of \$100 and attending a damage prevention training course to be held at the offices of the PSC at 211 Sower Boulevard, Frankfort, Kentucky on June 7, 2021, at 9 a.m. If Ben Hodges attends the above training course on or before that date and pays a civil penalty in the amount of \$100, the additional \$1,150 assessed against him in numerical paragraph 2 will be vacated.

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 with 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



ATTEST:

  
Executive Director

\*Ben Hodges  
387 Oakwood Ln  
Leitchfield, KENTUCKY 42754