

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FICK'S CONSTRUCTION LIMITED LIABILITY COMPANY)	
)	
_____)	CASE NO.
)	2021-00075
ALLEGED VIOLATION OF UNDERGROUND FACILITY DAMAGE PREVENTION ACT)	
)	

OPENING ORDER

Fick's Construction Limited Liability Company (Fick's Construction) 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 Fick's Construction 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 Fick's Construction 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. Fick's Construction shall submit to the Commission, via email sent to PSCED@ky.gov with the case number of this proceeding in the subject line of the message, 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 32114 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 Fick's Construction 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



ATTEST:


Executive Director

Case No. 2021-00075

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00075 DATED MAR 01 2021

FIVE PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 32114
Incident Date 9/11/2019 3:45:00 PM	Report Submitted 10/9/2019 2:55:00 PM

OPERATOR INFORMATION

Operator Louisville Gas and Electric Company	Reported By Mike Jones
Phone (502) 364-8281	Email Mike.Jones@lge-KU.com
Incident Location 16709 Winding View Trl Fisherville, KY 40023 Jefferson	Locate Ticket Number NA

EXCAVATOR INFORMATION

Name of Excavator Fick, Shawn	Organization ID 1085050
Phone 502-468-1209	Email
Excavator Address Fick's Construction Limited Liability Company 115 Crenshaw Ln Coxs Creek, KY 40013	Locate Ticket Number

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	Mechanized	\$2229.00	\$0.00

The operator reports that the contractor augered into unmarked 4" plastic gas main while drilling for fence posts. Contractor did not have a locate request. Damage occurred in the rear of the several acre property.

INVESTIGATION

Shawn Fick Contracting is not listed with the Kentucky Secretary of State's office.

A search of the Secretary of State's office discovered a Fick's Construction Limited Liability Company with an address in Cox's Creek, Kentucky.

This would be Mr. Fick's first violation.

May 19, 2020

- Called 502.468.1209, message identified as Shawn Fick, left a v.m.

May 27, 2020

- Called 502.468.1209 again, left another v.m.

June 4, 2020

- Called 502.468.1209, left a v.m. that a demand letter with a \$1,250 civil penalty was coming.
- Google Fick's Construction, came up with Ron Fick Landscaping 49 Grigsby Ln, Coss Creek, KY, phone: 502.643.6097.
- Called, message was the voice mail box was full and cannot accept messages at this time.

June 10, 2020

- Called 502.643.6097, got a v.m. for Ronnie Fick, left a v.m.

June 19, 2020, no return calls, sending demand letter.

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 10/9/2019 Incident ID: 32114

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32114\)](#)

Reported By:

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

Gas Line Incident Occured:

Date: 9/11/2019
Time: 3:45 PM

Details:

Reported Date: 10/9/2019 2:55 PM

Incident Location Address:

Location:

Address: 16709 Winding View Trl
City: Fisherville
State: KY
County: Jefferson
Zip: 40023
Confirm Code: Y

Number of Customers out: 0

Was gas or hazardous liquids contained in the underground facility?

Was gas or hazardous liquids released into the atmosphere? *

3/2020

Locate Request Ticket No.: NA

Excavator: Contractor

Excavator Address:

First Name: Shawn
Last Name: Fick
Organization ID:
Company: Shawn Fick Contracting
Phone: 502-468-1209
Email:

Address: 115 Crenshaw Ln
City: Coxs Creek
State: KY
Zip: 40013
Confirm Code: Y
Excavation Damage: No notification made to the One
 Call Center

Description of Incident ?Excavator damaged unmarked gas main.

Summary Information

10/9/2019

Full details such as the cause	Contractor augered into unmarked 4" plastic gas main while drilling for fence posts. Contractor did not have a locate request. Damage occurred in the rear of the several acre property.
Extent of the damage	4" plastic gas main
Cost of the damage	\$2,229.00
Steps taken to prevent re-occurrence	Spoke with the contractor, Shawn Fick. He said he usually calls 811 but was digging in the rear of the property and thought he was clear. I reviewed the Dig Law with him and explained PSC involvement. I left a Know What's Below Brochure with the homeowner and asked her to give one to Shawn. He is coming back to fill in holes in the field.
Amount billed to excavator	\$0.00

Fick's Construction Limited Liability Company

General Information

Organization Number	1085050
Name	Fick's Construction Limited Liability Company
Profit or Non-Profit	P - Profit
Company Type	KLC - Kentucky Limited Liability Company
Status	A - Active
Standing	G - Good
State	KY
Country	USA
File Date	1/27/2020 6:55:00 PM
Organization Date	1/27/2020
Last Annual Report	N/A
Principal Office	69 Grigsby Ln Coxs Creek, KY 40013
Managed By	Managers
Registered Agent	Ronald Thomas Fick 69 Grigsby Ln Coxs Creek, KY 40013

Current Officers

Individuals / Entities listed at time of formation

Organizer	Ronald Thomas Fick
Registered Agent	Ronald Thomas Fick

Images available online

Documents filed with the Office of the Secretary of State on September 15, 2004 or thereafter are available as scanned images or PDF documents. Documents filed prior to September 15, 2004 will become available as the images are created.

Articles of Organization	1/27/2020 6:55:01 PM	1 page	PDF
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Assumed Names

Activity History

Filing	File Date	Effective Date	Org. Referenced
Add	1/27/2020 6:55:00 PM	1/27/2020 6:55:00 PM	

Microfilmed Images

Fick's Construction Limited Liability Company
69 Grigsby Ln
Cox's Creek, LOUISIANA 40013