

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FER-CO ENTERPRISES, INC.)	
)	
_____)	CASE NO.
)	2021-00202
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

ORDER

A hearing was held before the Kentucky Public Service Commission (Commission) on August 19, 2021, at its offices at 211 Sower Boulevard, Frankfort, Kentucky, concerning the allegation that Fer-Co Enterprises, Inc. (Fer-Co Enterprises) violated KRS 367.4911(2) when, on January 21, 2020, at approximately 6:45 p.m. at 1728 Hilton Ave, Ashland, Kentucky, it conducted excavation activities within the approximate location of underground facilities using mechanized equipment, more than 21 calendar days from the date it requested marking of the location of underground facilities. No representative of Fer-Co Enterprises appeared at the hearing. Columbia Gas of Kentucky, Inc. (Columbia Kentucky) reported that it owned and operated the underground gas service line damaged by Fer-Co Enterprises and that the line was used to serve the public.

FINDINGS OF FACT

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

1. Fer-Co Enterprises, at the time the damage occurred on January 21, 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 Columbia Kentucky to serve the public. The service line contained natural gas at the time it was damaged by Fer-Co Enterprises.

2. Fer-Co Enterprises continued excavation activity at 1728 Hilton Ave., Ashland, Kentucky, for more than 21 days, and failed to call the Kentucky Contact Center (One Call Center or Protection Notification Center) to request remarking of its excavation location prior to the expiration of its locate request.

3. Fer-Co Enterprises' locate request was made on November 12, 2019, and expired on December 3, 2019. Continuing excavation activity beyond December 3, 2019, without renewing the locate request was a violation of KRS 367.4911(2).

4. Fer-Co Enterprises' 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. Fer-Co Enterprises failed to hand dig or use non-intrusive means when excavating to avoid damage to the underground facility.

6. There are no known mitigating factors which would merit the imposition of a civil penalty less than the maximum provided by law. This violation is Fer-Co Enterprises' first violation of KRS 367.4901 through KRS 367.4917.

CONCLUSIONS OF LAW

1. Fer-Co Enterprises violated KRS 367.4911(2) when it continued excavation activity after December 3, 2019, without renewing its locate request.

2. As a consequence, the approximant location of the underground facility was not marked, and Fer-Co Enterprises struck and damaged it while using mechanized equipment.

3. Fer-Co Enterprises is subject to a civil penalty in the amount of \$1,250 for this violation by operation of KRS 367.4917(1) and KRS 367.4917(4).

IT IS THEREFORE ORDERED that:

1. Fer-Co Enterprises is assessed a civil penalty of \$1,250 for violation of KRS 367.4911(2).

2. Fer-Co Enterprises 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 40602.

3. This case is closed and removed from the Commission's docket.

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.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner



ATTEST:


Executive Director

Jeffery Fergusson
Fer-Co Enterprises, Inc.
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Catlettsburg, KENTUCKY 41129