

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KEITH GUTTERMAN

ALLEGED VIOLATION OF UNDERGROUND
FACILITY DAMAGE PREVENTION ACT

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CASE NO.
2019-00156

OPENING ORDER

Keith Gutterman 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 Keith Gutterman (Mr. Gutterman) 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. Gutterman 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:

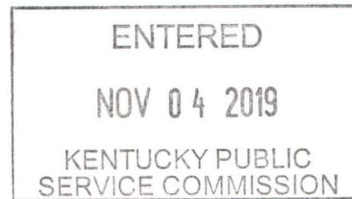
1. Mr. Gutterman shall submit to the Commission a written response to the allegations contained in the Staff Incident Report within 20 days of receipt of this Order.
2. Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed 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 20849 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. Gutterman 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

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00156 DATED **NOV 04 2019**

TWO PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Jason Whisman	Incident ID 20849
Incident Date 7/29/2018 11:10:00 AM	Report Submitted 8/27/2018 3:00:01 PM

OPERATOR INFORMATION

Operator Louisville Gas and Electric Company Phone (502) 364-8724 Incident Location 205 Halcomb Ct Mount Washington, KY 40047 Bullitt	Reported By Paul Stratman Email Paul.Stratman@lge-KU.com Locate Ticket Number n/a
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EXCAVATOR INFORMATION

Name of Excavator Keith, Gutterman Phone 502-314-6339 Excavator Address 205 Halcomb Ct Mount Washington, KY 40047	Organization ID Email Locate Ticket Number
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Gasline Damage Report:

Excavation Damage: No notification made to the One Call Center

Description of Incident Homeowner digging fence post damaged gas service.

Summary Information

8/27/2018

Full details such as the cause - Homeowner digging without locate request, and damaged gas service.

Extent of the damage - 1/2" gas service.

Cost of the damage - \$547.00

Steps taken to prevent re-occurrence - Advised homeowner to call 811 prior to any excavation.

Amount billed to excavator - \$0.00

Investigation Summary:

I talked with Keith Gutterman on 10/3/18 at 9:48am. He concurred he hit the line with mechanized equipment while digging for a fence. Keith requested the remedial penalty and class instead of the full penalty.

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.

Keith Gutterman
244 Douglas Drive
Shepherdsville, KENTUCKY 40165