

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SCOTT EXCAVATING, INC. - ALLEGED	)	CASE NO.
VIOLATION OF UNDERGROUND FACILITY	)	2019-00158
DAMAGE PREVENTION ACT	)	

ORDER

A hearing was held before the Kentucky Public Service Commission (PSC) on August 9, 2019 at its offices at 211 Sower Boulevard, Frankfort, Kentucky concerning the allegation that Scott Excavating, Inc. (Scott) violated KRS 367.4911(1)(a) and KRS 367.4911(10) on August 14, 2018 at 113 Mountain View Drive, Berea, Kentucky 40403 when its employee operating a mini track hoe hit and broke a 3/4" inch plastic service line containing natural gas and owned by Delta Natural Gas Company, Inc. to serve the public.

The initiating order further alleges that Scott failed to make a line location request to the One Call Center within twenty-one (21) days of the excavation. Scott was served with process and notified of the hearing date and time but failed to file a responsive pleading and failed to appear at the hearing to contest the allegations. Evidence was presented by John Lyons, the PSC case investigator who testified that he interviewed Scott Thomas the owner of Scott Excavating, Inc. who admitted that his employee damaged the 3/4" inch plastic natural gas service line and that no call was made to the Kentucky Contact Center to obtain information about the approximate location of the line.

## FINDINGS OF FACT

The testimony presented at the hearing as well as the record in this case including the exhibits filed in the record stands unrebutted and establishes that:

1. Scott was at the time the damage occurred on August 14, 2018 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 Delta Natural Gas Company, Inc. to serve the public. The service line contained natural gas at the time it was damaged by Scott.

2. Scott 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 (2) nor more than ten (10) full working days prior to commencing work as required by KRS 367.4911(1)(a).

3. Scott'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 requirements is applicable to this case.

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

## CONCLUSIONS OF LAW

1. Scott Excavating, Inc. violated the requirements of KRS 367.4911(1)(a) by failing to provide the operator of an underground facility serving the public with notification of its intended work and work schedule not less than two (2) nor more than ten (10) full working days prior to commencing work.

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 two hundred fifty dollars (\$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 one thousand dollars (\$1,000) for each offense.

4. Scott Excavating, Inc. is by reason of its failure to comply with the applicable provisions of the Underground Facility Damage Prevention Act as hereinbefore set out, subject to a maximum fine of one thousand two hundred fifty dollars (\$1,250).

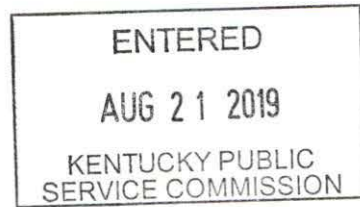
IT IS THEREFORE ORDERED that:

1. Scott Excavating, Inc. is assessed a fine of one thousand two hundred fifty dollars (\$1,250) for violation of KRS 367.4911(1)(a) for failure to provide Delta Natural Gas Company, Inc., of its intended work and work schedule not less than two (2) nor more than ten (10) full working days prior to commencing work.

2. Scott Excavating, Inc. shall pay one thousand two hundred fifty dollars (\$1,250) within thirty (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 Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, KY 40602.

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By the Commission



Commissioner Talina Mathews did not participate in the deliberations or decision concerning this case.

ATTEST:

  
Executive Director

Aaron Thomas  
Scott Excavating, Inc.  
3845 New Irvine Road  
Waco, KENTUCKY 40385