

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BRUCE HUBBARD

ALLEGED VIOLATION OF UNDERGROUND
FACILITY DAMAGE PREVENTION ACT

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CASE NO.
2019-00159

ORDER

A hearing was held before the Kentucky Public Service Commission (PSC) on January 24, 2020, at 9 a.m. Eastern Standard Time at its offices at 211 Sower Boulevard, Frankfort, Kentucky, concerning the allegation that Bruce Hubbard (Mr. Hubbard) violated KRS 367.4911(1)(a) on August 4, 2018, at 65 West Lane, Morehead, Kentucky, when he damaged a natural gas pipeline while conducting excavation operations without making a line location request to the One Call Center not less than two nor more than ten full working days prior to commencing work. Mr. Hubbard was served with process and notified of the hearing date and time but failed to appear at the hearing to contest the allegations. PSC Director of Division of Inspections John Lyons testified that he supervised and conducted an investigation which established that Mr. Hubbard had not obtained a locate ticket number from 811 and that Mr. Hubbard struck a Delta Natural Gas Company, Inc. natural gas service line while conducting excavation activities.

FINDINGS OF FACT

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

1. Mr. Hubbard, at the time the damage occurred on August 4, 2018, 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 Delta Natural Gas Company, Inc. to serve the public. The gas pipeline contained natural gas at the time it was damaged by Mr. Hubbard.

2. Mr. Hubbard 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. Hubbard'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.

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 Mr. Hubbard's first offense.

CONCLUSIONS OF LAW

1. Mr. Hubbard 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 his intended work and work schedule not less than two nor more than ten 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 \$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. Mr. Hubbard, by reason of his failure to comply with the applicable provisions of the Underground Facility Damage Prevention Act as hereinbefore set out, is subject to a maximum fine of \$1,250.

IT IS THEREFORE ORDERED that:

1. Mr. Hubbard is assessed a fine of \$1,250 for violation of KRS 367.4911(1)(a) for failure to provide the Delta Natural Gas Company, Inc., 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 and for violation of KRS 367.4917(4).

2. Mr. Hubbard 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 offices of the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky 40601.

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.

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By the Commission

Commissioner Talina Mathews did not participate in this case.

ENTERED
JAN 27 2020
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Bruce Hubbard
1390 Little Perry Road
Morehead, KENTUCKY 40351

Bruce Hubbard
75 West Lane
Morehead, KENTUCKY 40351