

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

HAYDEN CONSTRUCTION – ALLEGED	)	CASE NO.
VIOLATION OF UNDERGROUND FACILITY	)	2019-00167
DAMAGE PREVENTION ACT	)	

ORDER

Pursuant to KRS 278.495(2), the Kentucky Public Service Commission (Commission) has jurisdiction to regulate the safety of natural gas facilities in Kentucky and to enforce minimum federal pipeline safety standards. Under the Kentucky Underground Facility Damage Prevention Act (Act), KRS 367.4901 through KRS 367.4917, 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, 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 from an operator of excavation damage to its underground gas pipeline, 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 Hayden Construction Co. Inc. 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 Hayden Construction Co. Inc. violated the Underground Facility Damage Prevention Act. The Commission further finds that a formal investigation into the excavation damage incident should be conducted.

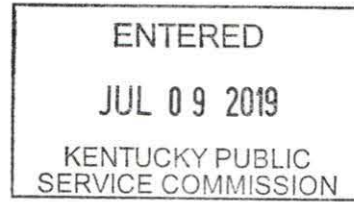
IT IS THEREFORE ORDERED that:

1. Hayden Construction Co. Inc. shall submit to the Commission a written response to the allegations contained in the Staff Incident Report within 20 days of the date of this Order.
2. Hayden Construction Co. Inc. shall appear on August 9, 2019, at 9 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violation of the Underground Facility Damage Prevention Act, and showing cause why it should not be subject to the penalties prescribed in KRS 367.4917(1) and (4) for this alleged violation.
3. The August 9, 2019 hearing shall be recorded by videotape only.
4. A person shall not file a paper or appear at a hearing on behalf of, or otherwise represent, a partnership, corporation, business entity or other person unless the person is an attorney licensed to practice law in Kentucky.

5. The Staff Incident Report in the Appendix to this Order is made a part of the record in this case.

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By the Commission



ATTEST:

  
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00167 DATED **JUL 09 2019**

ONE PAGE TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

<b>KY PSC Investigator(s)</b> John Lyons	<b>Incident ID</b> 20853
<b>Incident Date</b> 8/28/2018 12:00:00 PM	<b>Report Submitted</b> 8/28/2018 1:59:51 PM

## OPERATOR INFORMATION

<b>Operator</b> Atmos Energy Corporation <b>Phone</b> (270) 685-8138 <b>Incident Location</b> 3943 Highway 54, Owensboro KY Originally 3940 Highway 54 Owensboro, KY 42303  Davies	<b>Reported By</b> Steve Clark <b>Email</b> steve.clark@atmosenergy.com <b>Locate Ticket Number</b> N/A
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## EXCAVATOR INFORMATION

<b>Name of Excavator</b> Steve Hayden <b>Phone</b> 270-929-6003/270-683-3057 <b>Excavator Address</b> Hayden Construction Co., Inc. 3830 Vincent Station Dr Owensboro, KY 42303	<b>Organization ID</b> 0076943 <b>Email</b> N/A <b>Locate Ticket Number</b>
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Operator reports Hayden Construction, helping a friend where house was to eventually be torn down, was asked to find a water line. Looking for the water line, stuck hit a 3/4" PE service line (no wire) with their backhoe. Hayden Construction did not have a locate ticket.

Investigator Lyons called the main office on February 11, 2019, and was given Mr. Steve Hayden's number 270-929-6003. Spoke with Mr. Hayden same day who confirmed the Atmos report of excavation without a locate. Mr. Hayden agreed to first offense penalty and attendance at the May 6, 2019, damage prevention training.

### Violation(s)

KRS 367.4911(1)(a) - Each excavator, or person responsible for an excavation, 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 centers shall satisfy this requirement.

Steve Hayden  
Hayden Construction  
3830 Vincent Station Dr.  
Owensboro, KENTUCKY 42303