

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PRODIGY CONSTRUCTION CORPORATION,	)	
INC. - ALLEGED VIOLATION OF	)	CASE NO.
UNDERGROUND FACILITY DAMAGE	)	2019-00168
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 Prodigy Construction Corporation, Inc. (Prodigy) violated KRS 367.4911(10) on August 15, 2018 at 9600 Lamborne Boulevard, Louisville, Kentucky, when it conducted excavation activities within the approximate location of an underground facility while digging over line location marks with mechanized equipment. KRS 367.4911(10) requires the excavator to hand dig or use non-intrusive means to avoid damage to an underground facility within the approximate location of said underground facility. Prodigy damaged a gas service line owned and operated by Louisville Gas and Electric Company and used to serve the public.

Prodigy was duly served with the initiating order in this case and appeared by and through its project manager, Mr. Sean Mattingly. The initiating order at page 2, numerical paragraph 4 notified Prodigy that a person unlicensed to practice law in Kentucky would be unauthorized to appear at a hearing or otherwise represent it in this action. Prodigy apparently overlooked the requirement that use of an attorney in the event a party determined to present a defense was required. Administrative regulation 807 KAR 5:001

Section 4 at Subsection 4 provides that “A person shall not file a paper on behalf of another person or otherwise represent another person, unless the person is an attorney licensed to practice law in Kentucky or an attorney who has complied with SCR 3.030(2).” A person not an attorney appearing on behalf of a partnership corporation or business entity or other person unless licensed to practice law in the state of Kentucky is guilty of the unauthorized practice of law which is a Class B misdemeanor, KRS 524.130(1) & (3).

Mr. Mattingly acknowledged that he is neither licensed to practice law in the Commonwealth of Kentucky or elsewhere, and therefore not capable of representing Prodigy in this case nor has he been authorized to make an additional payment on its behalf of one thousand dollars (\$1000.)

The commission notes that Prodigy was offered the opportunity to mitigate its potential penalty of one thousand two hundred fifty dollars (\$1250) by making a payment to the Kentucky State Treasurer in the amount of two hundred fifty dollars (\$250) and attending a damage prevention training course to be held at the PSC at 211 Sower Boulevard in Frankfort, Kentucky. Prodigy made a payment of two hundred fifty dollars (\$250) to the Kentucky State Treasurer on January 8, 2019 but failed to attend at least two previously scheduled training sessions. The offer of mitigation of the potential maximum penalty involved both paying a reduced fine of two hundred fifty dollars (\$250) and attending training. Prodigy failed to meet its training obligation and the present case was initiated as a result.

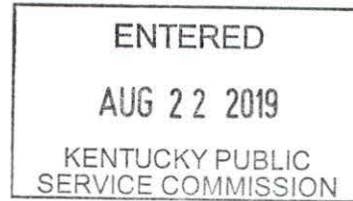
IT IS THEREFORE ORDERED AS FOLLOWS:

1. The hearing in this case is hereby continued until Friday, October 25, 2019 at 9:00 o'clock a.m. Eastern Time at the offices of the Public Service Commission located at 211 Sower Boulevard, Frankfort, Kentucky.

2. Prodigy must be represented by an attorney licensed or otherwise authorized to practice law within the Commonwealth of Kentucky.

3. The Public Service Commission has scheduled a damage prevention training course to be held at its offices located at 211 Sower Boulevard, Frankfort, Kentucky on September 9, 2019 beginning at 1:00 o'clock p.m. Prodigy will be deemed to have satisfied the requirements of the previous mitigation offer if an employee attends this training course. Upon proof of attendance this case will be dismissed, otherwise an evidentiary hearing will be held on October 25 and Prodigy's potential fine if found to have violated KRS 367.4911(10) shall be one thousand two hundred fifty dollars (\$1,250) less the two hundred fifty dollars (\$250) it has previously paid to the Kentucky State Treasurer.

By the Commission



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

ATTEST:

  
Executive Director

Sean Mattingly  
Prodigy Construction Corporation, Inc.  
11106 Decimal Drive  
Louisville, KENTUCKY 40229