

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BLUE JAY COMMUNICATIONS, INC.)	
)	
_____)	CASE NO.
)	2019-00278
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY 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 a report 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 as an Appendix to this Order. In its Incident Report, Staff cites Blue Jay Communications, Inc., for violation of the following provision of the Act:

KRS 367.4911(10) – When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that Blue Jay Communications, 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. Blue Jay Communications, 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. Blue Jay Communications, Inc., shall appear on September 27, 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 September 27, 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, or business entity (including a limited liability company) or another 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.

6. This Order shall be served via certified mail, return receipt accepted, to Blue Jay Communications, Inc., c/o John F. Houlihan, Agent for Service of Process, 2110 Spencer Court, La Grange, Kentucky, 40031.

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By the Commission

ENTERED
AUG 27 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00278 DATED **AUG 27 2019**

[TWO PAGES TO FOLLOW]

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 21177
Incident Date 10/31/2018 10:03:00 AM	Report Submitted 11/28/2018 10:11:13 AM

OPERATOR INFORMATION

Operator Louisville Gas and Electric Company	Reported By Paul Stratman
Phone (502) 364-8724	Email Paul.Stratman@lge-KU.com
Incident Location 3105 Wynbrooke Cir Louisville, KY 40241 Jefferson	Locate Ticket Number 1810130133

EXCAVATOR INFORMATION

Name of Excavator Knox, Morgan	Organization ID
Phone 216-331-3414	Email
Excavator Address BLUE JAY COMMUNICATION 2110 Spencer Ct Lagrange, KY 40031	Locate Ticket Number

INCIDENT

The operator reports that the excavator was boring in communications line and damaged a gas facility. Boring contractor thought their bore head was deeper than it was. Locates were accurate.

INVESTIGATION

Blue Jay Communication, Inc. is a foreign corporation that is active and in good standing with the Secretary of State's office.

June 5, 2019

- Called the office number on the report, went to a system that requires you to enter their last name using the keypad, it didn't work for Morgan Knox.
- Called number found on Facebook, she sent me to Mr. Alan Wilkins, unfortunately it was the same system, and it didn't work.
- Called her back and she gave me Alan's cell phone number (216.513.3122), called this, it rang 4 times then quit ringing. No voicemail, no nothing.

June 6, 2019

- Called Mr. Wilkins number again, he indicated that he needed to research the issue back at the office and then he will get back to me.

June 7, 2019 spoke with Gino Pulito, attorney for Blue Jay Communication, LLC. He stated that he had addressed this issue back in March. John Park and I explained that was with LG&E, not us. We agreed to provide Mr. Pulito a summary of what we believe should have been done by BJC.

VIOLATION

KRS 367.4911 (10) When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

Blue Jay Communications, Inc.
7500 Associate Ave
Brooklyn, OHIO 44144

John F Houlihan
Registered Agent
Blue Jay Communications, Inc.
2110 Spencer Ct.
LaGrange, KENTUCKY 40031