

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SEAN TURNER)	
)	
_____)	CASE NO.
)	2019-00282
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 to this Order as an Appendix. In its Incident Report, Staff cites Sean Turner for violation of the following provision of the Act:

KRS 367.4911(8)(a) The excavator shall contact the protection notification center to request remarking two (2) working days in advance of the expiration of each twenty-one (21) day period while excavation continues or if the markings of any underground facility have been removed or are no longer visible.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that Sean Turner 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. Sean Turner 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. Sean Turner 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. 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.

4. The September 27, 2019 hearing shall be recorded by videotape only.

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 Sean Turner, 464 North 25th Street, Apartment 3, Louisville, Kentucky, 40212.

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By the Commission

ENTERED
AUG 27 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2019-00282

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00282 DATED **AUG 27 2019**

TWO PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 21162
Incident Date 10/25/2018 1:43:00 PM	Report Submitted 11/20/2018 9:37:21 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 506 Main St West Point, KY 40177 Hardin	Locate Ticket Number 1809280477

EXCAVATOR INFORMATION

Name of Excavator Turner, Sean	Organization ID
Phone 502-322-2293	Email
Excavator Address 464 N 25th St Louisville, KY 40212	Locate Ticket Number

INCIDENT

Homeowner working on water line repair damaged gas service. Excavator was working on expired locate request ticket (ticket requested 9/28).

INVESTIGATION

May 31, 2019

- Spoke with Mike Jones. He said his notes indicate a trencher was used.
- Spoke with Sean Turner. He was at work, doesn't have email, says he received a letter from LG&E that states that the only thing he was in violation of was going over the 21 day limit on the dig ticket. I explained that that was a violation, and tried to discuss the terms of a demand letter. Mr. Turner was not agreeable to the penalty, a reduced penalty and attending a class in Frankfort. He said he had hired a contractor to do the digging, but the information was at home. He needed me to text him the PSC address so he can send the information. I will wait until someone with a work cell phone is available for me to use.

June 18, 2019 spoke with Mr. Turner again. He said he wasn't digging, Anthony Hale was. Before I could ask for any additional information, Mr. Turner said he had to go and hung up.

VIOLATION

KRS 367.4911 (8) (a) The excavator shall contact the protection notification center to request remarking two (2) working days in advance of the expiration of each twenty-one (21) day period while excavation or demolition continues or if the markings of any underground facility have been removed or are no longer visible.

Sean Turner
464 N 25th Street
Louisville, KENTUCKY 40212