

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

J.I. OBENIEL CONSTRUCTION LLC)

ALLEGED VIOLATION OF UNDERGROUND)
FACILITY DAMAGE PREVENTION ACT)

CASE NO.
2019-00447

ORDER

A hearing in the above matter was held before the Kentucky Public Service Commission (PSC) on February 28, 2020 at its offices at 211 Sower Boulevard, Frankfort, Kentucky concerning the allegation that J.I. Obeniel Construction LLC (Obeniel) violated 367.4911(3) on March 21, 2019 at 5503 Phoenix Hill Court, Louisville, Kentucky 40207 when it damaged a natural gas pipeline while conducting excavation operations. Obeniel failed to provide the applicable protection notification center and the pipeline operator, Louisville Gas and Electric Company with adequate information regarding the excavation site location or locations. Obeniel was conducting boring operations when it struck a gas main which was located outside the scope of its locate request. More specifically Obeniel was boring under a street when it damaged a two inch natural gas main which contained natural gas which escaped into the environment. Obeniel was served with process and notified of the date and time of the hearing but failed to appear at the hearing to contest the allegations. PSC investigator Eric Tout testified that he investigated the incident and that his investigation concluded that Obeniel had failed to provide adequate information concerning its excavation activities and as a result conducted boring operations outside

the scope of its locate request and thereby caused damage to a two inch gas main which resulted in natural gas escaping into the environment.

FINDINGS OF FACT

The testimony presented at the hearing as well as the exhibits filed in the record stand unrebutted and establish that:

1. Obeniel was at the time the damage occurred on March 21, 2019 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(6). The natural gas service line was an underground facility owned and operated by Louisville Gas and Electric Company to serve the public. The service line contained natural gas at the time it was damaged by Obeniel and natural gas as a result of such damage escaped into the environment.

2. Obeniel damaged the aforementioned natural gas pipeline outside the scope of its locate request in violation of KRS 367.4911(3)(c) and (d).

3. There are no known mitigating factors which would merit the imposition of a fine less than the maximum provided by law. This violation is Obeniel's first offense.

CONCLUSIONS OF LAW

1. J.I. Obeniel Construction LLC violated the requirements of KRS 367.4911(3)(c) and (d) when it bored into a natural gas main outside the scope of its locate request.

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 two hundred fifty dollars (\$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 one thousand dollars (\$1,000) for each offense.

4. J.I. Obeniel Construction LLC is, by reason of its failure to comply with the applicable provisions of the Underground Facility Damage Prevention Act as hereinbefore set out, subject to a maximum fine of one thousand two hundred and fifty dollars (\$1,250).

IT IS THEREFORE ORDERED that:

1. J.I. Obeniel Construction LLC is assessed a fine of one thousand two hundred fifty dollars (\$1,250) for violation of KRS 367.4911(3)(c) and (d).

2. J.I. Obeniel Construction LLC shall pay one thousand two hundred fifty dollars (\$1,250) within thirty (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 office of the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, KY 40602.

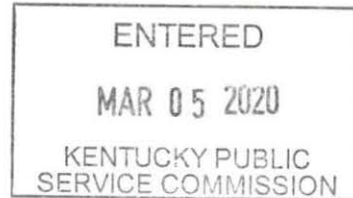
THIS IS A FINAL AND APPEALABLE ORDER OF THE PUBLIC SERVICE COMMISSION.

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(1).

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

By the Commission

Commissioner Talina Mathews did not participate in this case.



ATTEST:



Executive Director

Jose Inocente
9521 E. Clarksboro Road
Liberty, MISSOURI 64068