

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BECKNELL-COGHILL, INC.)
 _____)
 ALLEGED VIOLATION OF UNDERGROUND)
 FACILITY DAMAGE PREVENTION ACT)

CASE NO.
2021-00159

RESPONSE OF BECKNELL-COGHILL, INC.
TO STAFF INCIDENT REPORT

Comes now the Respondent, Becknell-Coghill, Inc. (hereinafter "Coghill"), by and through counsel, in compliance with numerical paragraph 1., of the Order of the Commission entered April 19, 2021, and submits its Response to the allegations contained in Staff Incident Report No. 32249, as follows:

1. On October 28, 2019, Coghill was operating excavation equipment at or near 2119 Highwater Rd, Villa Hills, Kentucky 41017.
2. Prior to that excavation, some portion of the area of the underground gas line was allegedly marked by a third-party.
3. Prior to that excavation, rainwater and pine needles/general natural debris had impacted the area and reduced visibility of the surrounding areas.
4. Coghill was unable to utilize hand-digging techniques pursuant to KRS 367.4911(10), as he was not sufficiently placed on notice of the exact location of the underground facilities due to the inadequate and/or nonexistent marking at the time of excavation.
5. That the area of the alleged damage was not properly marked and/or maintained to allow for proper protection of the underground facility markers.

6. That Coghill took all reasonable and foreseeable measures available to him at that time which were necessary to protect and preserve any temporary underground facility markers pursuant to KRS 367.4911(6).
7. That the alleged marks or markings which indicated the underground facilities were not present, and/or not visibly apparent to a reasonable person, at the time of excavation.
8. That Coghill has been performing identical services on identical sites for over 30 years and has never acted in this alleged damage-causing manner before.
9. That the proximate cause of these damages was due to intervening and uncontrollable factors, and not by any alleged misconduct, negligence, or other actions of Becknell-Coghill, Inc or its employees.

WHEREFORE, the Respondent, Becknell-Coghill, Inc., requests that the commission find that it complied with its obligations imposed by the Kentucky Underground Facility Damage Prevention Act, and that not violation of the Act occurred as reported in Incident No. 32249.

Respectfully Submitted,



Donald L. Nageleisen, Esq.
2216 Dixie Highway, Suite 203
Ft. Mitchell, KY 41017
P: (859) 491-8887
F: (859) 491-5544
dlnlegalmail@yahoo.com

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was sent via electronic mail on this 16th day of August, 2021 to the following:

PSCED@ky.gov



Donald L. Nageleisen, Esq.