

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TRI-CITIES CONSTRUCTION LLC)	
)	
_____)	CASE NO.
)	2022-00090
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

ORDER

A hearing was held before the Kentucky Public Service Commission (Commission) on July 29, 2022, at its offices at 211 Sower Boulevard, Frankfort, Kentucky, concerning the allegation that Tri-Cities Construction LLC (Tri-Cities) violated KRS 367.4911(1)(a) when, on November 6, 2020, at approximately 9:30 a.m. at 1292 Mitchell Street, Catlettsburg, Kentucky 41129, it conducted excavation activities within the approximate location of underground facilities, without first calling the Kentucky Contact Center (811) to request marking of underground facilities, and thereby caused damage to a three-inch underground natural gas main and service tee owned, operated, and used by Columbia Gas of Kentucky, Inc. (Columbia Kentucky) to serve the public. Tri-Cities received notice of the date, time, and location of the hearing,¹ but no representative of Tri-Cities appeared at the hearing.

¹ See Notice of Filing Evidence of Successful Service of Process (filed on July 26, 2022). Documentation from the United States Postal Service indicates Tri-Cities received notice of the July 29, 2022 hearing on June 21, 2022.

Following a review of the record and the taking of testimony the Commission determined that Tri-Cities violated the Kentucky Underground Facility Damage Prevention Act set forth in KRS 367.4901 through KRS 367.4917 (hereinafter referred to as the “Act”), and that the violation resulted in damage to a three-inch natural gas main and a service tee. As a result of the damage natural gas was released into the atmosphere.

FINDINGS OF FACT

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

1. Tri-Cities, at the time the damage occurred on November 6, 2020, was an excavator as defined by KRS 367.4903(4) that caused damage to a natural gas main and service tee by means of excavation as defined by KRS 367.4903(2) and (6).
2. The natural gas main and service tee was an underground facility owned and operated by Columbia Kentucky to serve the public.
3. The underground facility contained natural gas at the time it was damaged by Tri-Cities.
4. Tri-Cities failed to call 811 to request marking of underground facilities not less than two nor more than ten full working days prior to commencing work as required by KRS 367.4911(1)(a).
5. Tri-Cities’ excavation work was not emergency work within the scope of KRS 367.4907 or the definition of “Emergency” as defined in KRS 367.4903(7), and no exception to the call requirement is applicable to this case.

6. There are no known mitigating factors which would merit the imposition of a civil penalty less than the maximum provided by law.

7. This violation is Tri-Cities' first violation of the Act.

CONCLUSIONS OF LAW

1. Tri-Cities violated KRS 367.4911(1)(a) when it did not contact 811 to request marking of the location of any underground facilities within its area of planned excavation at least two and not more than ten full working days prior to commencing excavation.

2. As a consequence, the approximate location of a three-inch gas main and a service tee owned and operated by Columbia Kentucky was not marked, and Tri-Cities struck and damaged it while engaging in excavation activity with mechanized equipment.

3. Tri-Cities is subject to a civil penalty of \$1,250 for this violation by operation of KRS 367.4917(1) and KRS 367.4914(4).

IT IS THEREFORE ORDERED that:

1. Tri-Cities is assessed a civil penalty of \$1,250 for violation of KRS 367.4911(1)(a)

2. Tri-Cities shall pay \$1,250 within 30 days of the date service 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, Kentucky 40602.

3. A record of payment of the penalty assessed in this Order shall be made in the post-case correspondence file of this proceeding.

4. This case is closed and removed from the Commission's docket.

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.

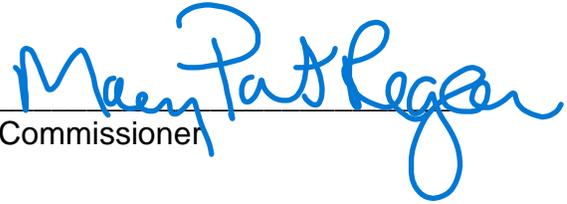
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PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman



Commissioner



ATTEST:



Executive Director

*Dakota Gussler
Tri-Cities Construction LLC
704 Bellefonte Princess Rd.
Ashland, KENTUCKY 41101

*Cody Gussler
Tri-Cities Construction LLC
2710 Crawford Street
Ashland, KENTUCKY 41101