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Kent A. Chandler
Chairman

Angie Hatton
Vice Chairman

Mary Pat Regan
Commissioner

November 3, 2023

PARTIES OF RECORD

Re: Case No. 2023-00174

Notice is given to all parties that the attached document has been filed into the record of this proceeding.

If you have any comments you would like to make regarding the contents of the document, please do so within five days of receipt of this letter. If you have any questions, please contact Jessica Norris-Canfield, Staff Attorney at JNorrisCanfield@ky.gov.

Sincerely,

A handwritten signature in blue ink that reads "Linda C. Bridwell".

Linda C. Bridwell, PE
Executive Director

Attachment: Document

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

J & S CONSTRUCTION, LLC)	
)	
_____)	CASE NO.
)	2023-00174
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

This matter was originally established by an Order of the Commission, dated June 7, 2023. The hearing in this matter was reset for October 27, 2023, by an Order of the Commission, dated July 25, 2023.

Staff moves that the Commission enter judgment against J & S Construction, LLC (J & S Construction) pursuant to KRS 13B.050(3) and the following:

1. J & S Construction was duly served with a copy of the Initiating Order and Final Investigative Report by the Scott County Sheriff's Department on September 19, 2023.
2. J & S Construction has not filed an answer or any other responsive pleading and the time for such has since expired.
3. The Initiating Order and Final Investigative Report cited a violation of KRS 367.4911(10) for failing to use nonintrusive means to avoid damage within the approximate location of the underground facility. As outlined in the Final Investigative Report, J & S Construction was excavating with a mechanized equipment within the tolerance zone of an accurately marked natural gas line to install an electric service line

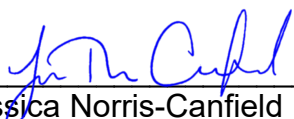
when the bucket of the excavator punctured the natural gas service line. The civil penalty for a third/subsequent¹ offense violation of KRS 367.4911(10) is \$3,000.00.

4. The Initiating Order and Final Investigative Report cited a violation of KRS 367.4917(4) for damaging a facility that contains any flammable, toxic, corrosive, or hazardous material or results in the release of any flammable, toxic, corrosive, or hazardous material. As outlined in the Final Investigative Report, J & S Construction hit and punctured a ¾" plastic EFV natural gas service line resulting in the release of natural gas into the atmosphere. The volume of natural gas was minimal due to the service line being equipped with an excess flow valve; however, a release of natural gas did occur. The civil penalty for a violation of KRS 367.4917(4), is \$1,000.

5. The total civil penalty assessed in the Initiating Order being \$4,000, upon which no reductions are due.

6. That by reason of J & S Construction's default, Staff is entitled to a final order as a matter of law.

WHEREFORE, Staff respectfully requests for a final order by default against J & S Construction in the amount of \$4,000, and that the Commission's investigation of Damage Incident 53852 be closed, and this case removed from the Commission's docket.



Jessica Norris-Canfield
Staff Attorney III

¹ J & S Construction have had two prior violations. The first offense violation was incident number 32507, which occurred on March 7, 2020. The second offense violation was incident number 43343, which occurred on January 11, 2022. More than three hundred sixty-five days (365) have not elapsed since the last incident attributable to J & S Construction, LLC to warrant a reversion to a first offense violation under KRS 367.4197(1).

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J & S CONSTRUCTION, LLC)	
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ORDER

A hearing was scheduled before the Kentucky Public Service Commission (Commission) on October 27, 2023, at its offices at 211 Sower Boulevard, Frankfort, Kentucky, concerning the allegation that J & S Construction violation KRS 367.4911(10) when, on July 22, 2021, at approximately 10:45 AM at 112 Blackthorn Drive, Nicholasville KY 40356, it conducted excavation activities within the approximate location of an accurately located underground facility with mechanized equipment and thereby caused damage to a ¾" gas service owned and operated by Delta Natural Gas Company, Inc. (Delta Natural Gas) to serve the public.

According to the Damage Report submitted to the Commission by Delta Natural Gas, which is encompassed in the Final Investigative Report compiled by the Commission's Division of Inspections, J & S Construction was stated to be in violation of KRS 367.4911(10) and subject to a civil penalty for this violation by operation of KRS 367.4917(1) and KRS 367.4917(4). J & S Construction did not appear at the hearing.

Upon Commission Staff's Motion for Default Judgment herein against J & S Construction, and that it appears that the J & S Construction was duly served with the

Initiating Order and Final Investigative Report on September 19, 2023, and made no Answer nor filed any responsive pleading herein, and is thereby in default, and the Commission being otherwise sufficiently advised;

IT IS HEREBY ORDERED that:

1. J & S Constructionism assessed a civil penalty in the amount of \$4,000 for violation of KRS 367.4911(10) and KRS 367.4917(4).

2. J & S Construction shall pay \$4,000 within 30 days 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. The Commission's investigation of Damage Incident 53852 is hereby closed, and this case is 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.

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner

ATTEST:

Executive Director

*J&S Construction, LLC
106 Lewis Ct
Georgetown, KENTUCKY 40324