

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|----------------------------------|---|------------|
| RON ROSS |) | |
| |) | |
| _____ |) | CASE NO. |
| |) | 2020-00045 |
| ALLEGED VIOLATION OF UNDERGROUND |) | |
| FACILITY DAMAGE PREVENTION ACT |) | |

OPENING ORDER

Ron Ross (Mr. Ross) has been named as a party to an investigation before the Kentucky Public Service Commission (Commission) for allegedly violating the Kentucky Underground Facility Damage Prevention Act (Act).¹

Pursuant to KRS 278.495(2), the Commission has jurisdiction to regulate the safety of natural gas facilities in Kentucky and to enforce minimum federal pipeline safety standards. Under the Act, 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,

¹ KRS 367.4901 through KRS 367.4917.

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 of a report of excavation damage to its underground gas pipeline from an operator, 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 Mr. Ross for violation of the following provision of the Act:

KRS 367.4911(1)(a) – Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full working days nor more than ten (10) full working days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds prima facie evidence that Mr. Ross 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. Mr. Ross shall submit to the Commission, via email sent to PSCED@ky.gov with the case number of this proceeding in the subject line of the message, a written response to the allegations contained in the Staff Incident Report within 20 days of receipt of this Order.

2. **Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.**

3. The Staff Incident Report 31512 in the Appendix to this Order is made a part of the record in this case.

4. **Please note that notice of a hearing to be held in this matter will be mailed to Mr. Ross once proof of service is received by the Commission. Parties who fail to appear after service will be subject to entry of a default judgment against them.**

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By the Commission



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2020-00045 DATED FEB 01 2021

TEN PAGES TO FOLLOW

**SUPPLEMENTAL PIPELINE DAMAGE
INVESTIGATION REPORT
Investigation Information**

| | |
|--|---|
| KY PSC Investigator(s) Eric V. Tout | Incident ID 31512 |
| Incident Date 4/8/2019 4:30:00 PM | Report Submitted 4/24/2019 12:04:02 PM |

OPERATOR INFORMATION

| | |
|---|------------------------------------|
| Operator Louisville Gas and Electric Company | Reported By Mike Jones |
| Phone (502) 364-8281 | Email Mike.Jones@lge-KU.com |
| Incident Location 539 N 44th St Louisville, KY 40212 | Locate Ticket Number NA |
| Jefferson | |

EXCAVATOR INFORMATION

| | |
|---|-----------------------------|
| Name of Excavator Ross, Ron | Organization ID |
| Phone 502-224-3094 | Email |
| Excavator Address 1014 Woodway Ln Louisville, KY 40211 | Locate Ticket Number |

Supplemental Report

The Jefferson Co. PVA list the owner of the property located at 539 N 44th St., Louisville as Preston Jr. & Sarah L. Richie.

On 12/16/19 directory assistance provide no telephone listing for 539 N. 44th St. or the Richies and an Accurint report was requested.

On 01/10/20 Accurint report provided a number for Sarah Richie 502-749-7402.

On 01/13/20 Ms. Richie of the above noted incident address stated that she was unaware if work had occurred and by whom at said address, but she stated the porch, sidewalk and drive appeared to be new. Ms. Richie stated that she has resided at that address well before the incident date. Ms. Richie noted this investigators name and number, stated she would research and call back if she discovered some information.

On 02/10/20 the Operator, LG&E's Mike Jones, provided a LG&E invoice dated 04/19/19 indicting Mr. Ross was billed \$348.85 for the damage and Mr. Jones stated no payment has been received. Mr. Jones also included a Facts-Based Investigation with photographs indicating Mr. Ross was digging with a mini track hoe resulting in the damage to the service.

Email, LG&E invoice & Facts-Based Investigation are include as Attachment 2.

Attachment 2

Tout, Eric V (PSC)

From: Jones, Mike (Auburndale) <Mike.Jones@lge-ku.com>
Sent: Monday, February 10, 2020 8:44 AM
To: Tout, Eric V (PSC)
Subject: RE: 31512, 4/8/2019, 539 N 44th St Louisville, Ron Ross
Attachments: SQLT05308CM20020710240.pdf; 31512 - 539 N. 44th Street.pdf

****CAUTION** PDF attachments may contain links to malicious sites. Please contact the COT Service Desk ServiceCorrespondence@ky.gov for any assistance.**

Here is the invoice. It has not been paid.

Our damage report also.

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Wednesday, February 05, 2020 9:39 AM
To: Jones, Mike (Auburndale) <Mike.Jones@lge-ku.com>
Subject: 31512, 4/8/2019, 539 N 44th St Louisville, Ron Ross

EXTERNAL email. STOP and THINK before responding, clicking on links, or opening attachments.

Mike,

Looks like this one might go the a hearing. Need **all** reports, photos an copies of the damage invoice and payment.

*Thanks,
Eric V. Tout
Kentucky Public Services Commission
Division of Inspections / Damage Prevention
211 Sower Blvd., Frankfort, KY 40601
Office: 502-782-2622
Fax: 502-564-1582*

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Facts-Based Investigation

Internal Claim #: INC-20190408-014 Customer Claim #: _____

Site Investigator: Neal Miller Date Notified: 04/08/19 16:30:00

Notified By: (Name & #) Gas Operations Dispatch 5025891444

Damage Location: 539 S 44th st Louisville KY 40212

Date of damage: 04/08/19 16:00:00

Original Ticket #: None found Locator: _____

Due Date: _____ Date Located: _____

Photos taken before damage? N

Photos taken of damage site? Y

Type and size of damaged utility: Service/Drop 0.5

Depth: < 18" (0.5m) Below Grade

Description and extent of damage: Relative of the homeowner was digging with a mini track hoe when they hit a .5" plastic gas service. No bud ticket for their work.

Equipment used: _____

Damaging Company Name: _____

Company Address: _____

Telephone #: _____ Contact name: _____

Working for: _____

Contractor assisting in the repair of damaged facility: _____

Personal Injury: N 3rd Party Property Damage: N Evacuations: N Other: N

Explain: _____

Was Locate requested?: N Facilities located?: N

Locate accurate (Within tolerance zone)?: N If No, Distance markings off?: _____

Were marks visible at time of damage: N

Were damaged facilities within scope of ticket?: N



Facts-Based Investigation

Name of util. Mgr/Rpr Tech on site: _____ Tel. #: _____

Comments: _____

Witness: _____ Tel. #: _____

Comments: _____

Witness: _____ Tel. #: _____

Comments: _____

Investigator Findings: _____

Name the responsible party: Ron Ross

Give reasons why this party is responsible: Hit with mini track hoe. He didn't know he needed to call 811

Date of Investigation: 04/08/19 Total Investigation Time (Hours): _____

Site Investigator's Name: Neal Miller Phone: _____

Site Investigator's Signature: Neal Miller Date: 04/08/2019

(OFFICE USE ONLY)

DOCUMENTS ENCLOSED

Other: _____ Other: _____

Damage Status: One Call Notification Issue Cause Code: No notifications made to One-Call Center / 811

Damage Claims Manager: _____

Facts-Based Investigation





Invoice
Louisville Gas and Electric Company
 820 West Broadway
 Louisville, KY 40202
 Attn: Remittance and Collection
 800-928-1340

INVOICE DATE: 04/19/2019

REFERENCE: OTPD419
 NO.:
 DTS INVOICE: 2019041004
 NO.:

AMOUNT DUE: **\$348.85**
 DUE DATE: **05/19/2019**

ROSS, RON
 1014 WOODWAY LANE
 LOUISVILLE KY 40211

PLEASE RETURN TOP PORTION WITH YOUR PAYMENT
PLEASE INCLUDE INVOICE NUMBER ON ALL REMITTANCES

COST TO REPAIR: Damaged Customer Gas Service
 DAMAGE DATE: 04/08/2019
 DAMAGE LOCATION: 539 N 44th St
 Louisville, KY 40212

LABOR HOURS: 5.00

LABOR COST: \$292.79

MATERIAL COST: \$21.16

TRANSPORTATION/EQUIPMENT COST: \$34.90

CONTRACTOR COST: \$0.00

OTHER DAMAGE COSTS: \$0.00

TOTAL DUE: \$348.85

Louisville Gas and Electric Company · Remittance and Collection · 820 West Broadway · Louisville, KY 40202

PIPELINE DAMAGE INVESTIGATION REPORT
Investigation Information

| | |
|--|---|
| KY PSC Investigator(s) Eric V. Tout | Incident ID 31512 |
| Incident Date 4/8/2019 4:30:00 PM | Report Submitted 4/24/2019 12:04:02 PM |

OPERATOR INFORMATION

| | |
|--|---|
| Operator Louisville Gas and Electric Company Phone (502) 364-8281 Incident Location 539 N 44th St Louisville, KY 40212 Jefferson | Reported By Mike Jones Email Mike.Jones@lge-KU.com Locate Ticket Number NA |
|--|---|

EXCAVATOR INFORMATION

| | |
|--|---|
| Name of Excavator Ross, Ron Phone 502-224-3094 Excavator Address 1014 Woodway Ln Louisville, KY 40211 | Organization ID Email Locate Ticket Number |
|--|---|

INCIDENT

The Operator reports that the Excavator/Homeowner's relative was removing a driveway, sidewalk and porch with a mini track hoe when a half inch service was damaged and the Homeowner failed to contact the Protection Notification Center (811).

The Damage Report is include as Attachment 1.

Locate Ticket Summary

| Ticket # | Valid | Initial Date | Expiration Date (21 calendar days from Initial date) | Incident Date | # of Days Expired | Within Scope of Excavation |
|-----------------|--------------|---------------------|--|----------------------|--------------------------|-----------------------------------|
| None | N/A | N/A | N/A | N/A | N/A | N/A |

Excavation Summary

| Excavation Within Tolerance Zone | Type Of Equipment Used | Cost of Damage (Per Operator) | Amount Billed (Excavator) |
|---|-------------------------------|---|-------------------------------------|
| Yes | Mechanized / Track Hoe | \$349.00 | \$0.00 |

INVESTIGATION

On 10/14, 21 & 22/19 a voice messages was left for the Homeowner, Ron Ross at 502-224-3094.

On 11/04/19 an attempt to contact Mr. Ross at 502-224-3094 resulted in the wrong number.

On 11/05/19 the Operator, LG&E's Mike Jones, stated LG&E has no additional contact information for Mr. Ross.

On 11/13/19 an attempt to contact Mr. Ross resulted in telephone numbers 502-377-7614 and 502-776-2672 not being in services and 502-294-2776 resulted in a message stating that calls are not being received at this time.

VIOLATION

KRS 367.4911 (1) (a) Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full working days nor more than ten (10) full working days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.

Gas Excavation Damage Report

Louisville Gas and Electric Company

Submitted 4/24/2019 Incident ID: 31512

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=31512\)](#)

Reported By:

Name: Mike Jones
Phone: (502) 364-8281
Email: Mike.Jones@lge-KU.com

Gas Line Incident Occured:

Date: 4/8/2019
Time: 4:30 PM

Details:

Reported Date: 4/24/2019 12:04 PM

Incident Location Address:

Location:
Address: 539 N 44th St
City: Louisville
State: KY
County: Jefferson
Zip: 40212
Confirm Code: Y
Number of Customers out: 1
Locate Request Ticket No.: NA
Excavator: Contractor

Excavator Address:

First Name: Ron
Last Name: Ross
Organization ID:
Company:
Phone: 502-224-3094
Email:
Address: 1014 Woodway Ln
City: Louisville
State: KY
Zip: 40211

Confirm Code: Y

Excavation Damage: No notification made to the One
Call Center

Description of Incident ?Excavator hit gas service while demoing concrete.

Summary Information

4/24/2019

| | |
|---|---|
| Full details such as the cause | Relative of homeowner using mini track hoe tearing out driveway, sidewalk and porch hit 1/2" plastic gas service. No one made a locate request. They stated that they did not know they needed to call. |
| Extent of the damage | 1/2" plastic service |
| Cost of the damage | \$349.00 |
| Steps taken to prevent re-occurrence | Explained the Dig Law and left them an 811 brochure |
| Amount billed to excavator | \$0.00 |

Ron Ross
1014 Woodway Lane
Louisville, KENTUCKY 40211