

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INTERNATTIONAL, INC.)	
)	
_____)	CASE NO.
)	2021-00162
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

Internattional, Inc. (Internattional) 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 Internattional for violation of the following provision of the Act:

KRS 367.4911(10) – When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds prima facie evidence that Internattional 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. Internattional 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 31758 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 Internattional 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. 2021-00162 DATED APR 19 2021

ELEVEN PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Eric V. Tout Incident Date 7/2/2019 8:40:00 AM	Incident ID 31758 Report Submitted 7/15/2019 4:35:00 PM
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OPERATOR INFORMATION

Operator Delta Natural Gas Company, Inc. Phone 859-744-6171 ext. 1160 Incident Location 4529 Windstar Way Lexington, KY 40515 Fayette	Reported By Mary Virginia Rupard Email mvrupard@deltagas.com Locate Ticket Number 1906210360
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EXCAVATOR INFORMATION

Name of Excavator Aragon, Ray Phone 908-656-4729 Excavator Address Aragon Synergy LLC 5395 Cogswell Rd Wayne, MI 48184	Organization ID 1026559 Email Locate Ticket Number
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INCIDENT

The Operator reports that the Excavator damaged a correctly marked ¾ inch gas service with a hole-hog installing underground conduit. More specifically there were three pipelines in the work area, two were energized, the other was dead and all three lines were located and marked correctly. The Excavator exposed one pipeline and found another line when they dug six-feet on the other side of the exposed pipe. The Excavator assumed that the lines were not marked correctly since two lines were exposed. The service line was damaged when the Excavator ran the hole-hog next to the open hole which was in the vicinity of the third pipeline.

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
1906210360	Yes	06/21/19	07/11/19	07/02/19	0	Yes

The Locate Ticket is include as Attachment 2.

Excavation Summary

Excavation Within 18" (Approximate Location)	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
Yes	Mechanized / Hole-Hog	\$136.00	No bill was sent

INVESTIGATION

On 03/10/19 an attempt to contact the Excavator resulted in speaking to a representative (unable to understand name) of Internattional Inc. (586-675-4169) whom stated Aragon Synergy was subcontracted and he would have someone call back.

On 03/11/20 a representative of Internattional Inc. (unable to understand name) left a voice message to return his call, 313-784-0972.

On 03/17/20 a representative of International, Ciprian Virlan, stated that Aragon Synergy was working as International Inc. Mr. Virlan stated that the line damaged was not marked, but he would need additional time to research before making a statement and would call back this afternoon.

On 03/21/20 the Operator, Delta's Mary Virginia Rupard, stated via email, there were three pipelines in the work area. Two of the lines were energized and one was dead. Ms. Rupard stated that all three lines were located, marked correctly by a Delta employee and the excavator exposed one of the three pipelines. Ms. Rupard stated that the Excavator found another line when they dug six-feet on the other side of the exposed pipe. Ms. Rupard stated that the Excavator assumed the lines were not marked correctly since the Excavator already exposed two lines. Ms. Rupard stated that the Excavator punctured the service line when the Excavator ran the hole-hog next to the open hole which was in the vicinity of the third pipeline. Ms. Rupard provided a picture indicating the pipeline damaged was marked correctly.

Ms. Rupard's email and photograph are include as Attachment 3.

On 03/23/20, via email, Delta's email and photograph (See Attachment 3) were sent to Mr. Virlan and a follow-up call was made on 03/25/20 resulting in Mr. Varlan stating additional time to research was needed and he would email any information discovered on 03/27/20.

On 03/30/20 Mr. Varlan (313-784-0972, cvirlan@mileniumbors.com) stated that Internattional Inc. has no evidence to dispute the evidence provided by Delta, Mr. Varlan was receptive to attending the Damage Prevention Course and paying the reduce penalty of \$250.00.

VIOLATION

KRS 367.4911 (10) - When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

# of Previous Offences		
Excavator	Last Offence Incident Date	Last Offence Incident #
1 st	N/A	N/A

Attachment 1

Gas Excavation Damage Report

Delta Natural Gas Company, Inc.

Submitted 7/18/2019 Incident ID 31758

[Set back to Edit](#)

[Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=31758\)](#)

Reported By:

Name	Mary Virginia Rupard
Phone	859-744-6171 ext. 1160
Email	mvrupard@deltagas.com

Gas Line Incident Occured:

Date	7/2/2019
Time	8:40 AM

Details:

Reported Date	7/15/2019 4:35 PM
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Incident Location Address:

Location	4529 Windstar Way
Address	4529 Windstar Way
City	Lexington
State	KY
County	Fayette
Zip	40515
Confirm Code	Y
Number of Customers out	0
Locate Request Ticket No.	1906210360
Excavator	Contractor

Excavator Address:

First Name	Ray
Last Name	Aragon
Organization ID	
Company	Aragon Synergy International, Inc.
Phone	908-656-4729
Email	
Address	5395 Cogswell Rd
City	Wayne
State	MI
Zip	48184

Confirm Code Y

Excavation Damage Failure to use hand tools where required

Description of Incident Samuel Herman with Aragon Synergy was using a hole-hog to install underground conduit when he hit and punctured a 3/4-inch plastic service line.

Summary Information

7/18/2019

Full details such as the cause Aragon Synergy employees called 811 to request a line location prior to excavating. There were three pipelines in the work area. Two of the lines were energized and the other line was dead. All three lines were located and marked correctly by a Delta employee. Aragon Synergy employees exposed one of the three pipelines. They found another line when they dug six-feet on the other side of the exposed pipe. At that point, they assumed that the lines were not marked correctly since they already had two lines exposed. The service line was damaged when they ran the hole-hog next to the open hole which was in the vicinity of the third pipeline that was marked correctly. There were no injuries or property damage attributable to this incident. Delta employees replaced two feet of 3/4-inch plastic pipe and installed two socket couplings.

Extent of the damage employees replaced two feet of 3/4-inch plastic pipe and installed two socket couplings.

Cost of the damage \$136.00

Steps taken to prevent re-occurrence Samuel Herman was advised that when excavation is necessary within the approximate location of the pipeline (18-inches on either side) the law requires hand-digging or the use of non-intrusive means to avoid damage to the pipeline. He was also told that hand digging is required in all areas marked with flags and paint.

Amount billed to excavator \$0.00

Attachment 2

NORMAL NOTICE

Ticket : 1906210360 Date: 06/21/2019 Time: 08:53 Oper: MARY.ALLEN8.KY Chan:000

State: KY Cnty: FAYETTE City: LEXINGTON
Subdivision:

Address :

Street : WINDSTAR WAY

Cross 1 : BILTMORE PL

Location: LOCATE STARTING AT 4517 WINDSTAR WAY HEADING SOUTHWEST ALONG FRONT
EASEMENTS FOR APPROX 2525FEET ENDING AT AND INCLUDING 4529 WINDSTAR WAY

:

Boundary: n 37.959623 s 37.954911 w -84.517452 e -84.511937

Work type : BORING TO INSTALL UNDERGROUND CONDUIT

Done for : METRONET - LX013

Start date: 06/25/2019 Time: 09:15 Hours notice: 96/48 Priority: NORM

Ug/Oh/Both: U Blasting: NO

Emergency: N

Duration : N/A

Depth: 6 FEET

Company : INTERNATIONAL INC Type: CONT

Co addr : 24474 TELEGRAPH ROAD

City : SOUTHFIELD State: MI Zip: 48034

Caller : MARY ALLEN Phone: (586)675-4169

Contact : REY ARAGON - CELL Phone:

Mobile : (908)656-4729

Email : ARAGONSYNERGY.LOCATES@GMAIL.COM

Submitted date: 06/21/2019 Time: 08:53

Members: 0200 0237 0278 0326 0370 0700 2621 WINKY

Attachment 3

Tout, Eric V (PSC)

From: Mary V Rupard <MVRUPARD@DeltaGas.com>
Sent: Saturday, March 21, 2020 11:36 AM
To: Tout, Eric V (PSC)
Subject: RE: 31758, 7/2/2019, 4529 Windstar Way, Lexington, Aragon Synergy LLC
Attachments: 0835_001.pdf

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

Eric,

There were three pipelines in the work area. Two of the lines were energized and one was dead. ALL three lines were located and marked correctly by a Delta employee. The excavator exposed one of the three pipelines. They found another line when they dug six-feet on the other side of the exposed pipe. They assumed that the lines were not marked correctly since they already had two lines exposed. They punctured the service line when they ran the hole-hog next to the open hole which was in the vicinity of the third pipeline.

Attached is a picture showing that the pipeline that was damaged was marked correctly. I do not have any additional information concerning this incident other than what was submitted on the Gas Excavation Damage Report sent to the PSC. We did not bill Aragon Synergy for this incident.

Mary Virginia Rupard

Director - Safety and Operation Services
Delta Natural Gas Company, Inc.
3617 Lexington Road
Winchester, KY 40391
859-744-6171 ext. 1160



From: Tout, Eric V (PSC) [mailto:ericv.tout@ky.gov]
Sent: Tuesday, March 17, 2020 11:01 AM
To: Mary V Rupard
Subject: 31758, 7/2/2019, 4529 Windstar Way, Lexington, Aragon Synergy LLC

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Mary Virginia,

The excavator is stating this was missed marked. Will need reports photos, billing and payment information.

*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*

Our mission is to provide premier natural gas services while having a positive impact on customers, employees and shareholders. In achieving our mission, we act with integrity and ethics and we expect those with whom we do business to adhere to such standards. Visit <http://www.deltagas.com/governance> to view copies of both our Employee Business Code of Conduct and Ethics and our Vendor Code of Conduct and Ethics.

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