COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TONY HENDERSON D/B/A TONY HENDERSON PLUMBING

ALLEGED VIOLATION OF UNDERGROUND FACILITY DAMAGE PREVENTION ACT CASE NO. 2021-00230

OPENING ORDER

Tony Henderson D/B/A Tony Henderson Plumbing (Mr. Henderson) 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

¹ KRS 367.4901 through KRS 367.4917.

results in damage to an underground facility containing any flammable, toxic, corrosive, 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. Henderson for violation of the following provision of the Act:

KRS 367.4911(3)(c) – Each excavator shall provide each applicable protection notification center with adequate information regarding the excavation or demolition site location or locations, each of which shall not exceed two thousand (2,000) feet in length unless the excavator and operator agree to a larger area, the city or community, county and street address, including the nearest cross street.

Based on its review of the Incident Report and being otherwise sufficiently advised,

the Commission finds prima facie evidence that Mr. Henderson 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. Henderson shall submit to the Commission, via email sent to <u>PSCED@ky.gov</u> 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.

-2-

3. The Staff Incident Report 43377 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. Henderson 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.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

By the Commission



ATTEST:

Bidwell

Executive Director

Case No. 2021-00230

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2021-00230 DATED JUN 25 2021

NINETEEN PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Eric V. Tout Incident Date 1/29/2021 12:40:00 PM		Incident ID 43377 Key 7260 Report Submitted 2/14/2021 7:31:32 PM	
	OPERATOR INFO	ORMATION	
OperatorAtmos Energy CorporationPhone(270) 779-4849Incident Location740 Cedar, Calvert City/ Paducah740 Cedar StCalvert City, KY 42029		Reported ByAnthony StallinsEmailanthony.stallins@atmosenergy.Locate Ticket Number 2101261454	
Marshall	ORMATION		
Name of Excavator Phone Excavator Address Tony Henderson Plumb 163 Mulberry Dr.	Henderson, Tony 270-703-0215/270-210-0131 bing	Organization ID Email tonyh@mchsi.com Locate Ticket Number	

INCIDENT

The Operator reports that the Excavator damaged a 3/4 inch gas service with a backhoe repairing a water leak and the Loacte Ticket (LT) was for the address of 758 Cedar St., but the damage occurred in the back yard of 740/738 Cedar St.

The Damage Report (DR) is include as Attachment 1.

Gilbertsville, KY 42044

DR Summary

Excavation Within 18" (Approximate Location)	Type Of Equipment Used	Cost of Damage	Amount Billed
Outside scope of LT	Mechanized / Backhoe	\$867.00	\$867.00

LT Summary						
Ticket #& Address	Valid	Initial Date	Expiration Date (21 calendar days from Initial date)	Incident Date	# of Days Expired	Within Scope of Excavation
2101261454 758 Cedar St.	Yes	01/26/21	02/16/21	01/29/21	0	No

The Locate Ticket(s) is/are include as Attachment 2.

INVESTIGATION

A review of LT...1454 reveals the ticket was obtained on 01/26/21 by the Excavator for the address of 758 Cedar St. To locate the rear of the building within a 100 foot radius. *Note:* Said ticket mentions no location across Apricot Ave. at 740 Cedar St.

On 03/19/21 the Excavator, Tony Henderson Plumbing's Tony Henderson, stated that this was within the scope of the LT and the Operator did not mark the entire ticket. Mr. Henderson stated that the damage occurred across the street within the 100 foot radius of the rear of 758 Cedar St.

On 03/22/21 the Operator, Atmos's Anthony Stallins, provide an aerial photograph indicating both addresses, 740 & 758 Cedar, are on the corner of Cedar St. and Apricot Ave. The photograph depicts the damage occurred in the back/side yard across Apricot Ave, at 740 Cedar St. **Atmos's photograph is include as Attachment 3.**

On 03/23/21 Mr. Henderson stated that the 03/19/21 conversation was not with him it was with an employee. Mr. Henderson was informed of the above noted information and he provided the following. Mr. Henderson stated that the Housing Authority owns the subdivision, therefore anything within 100 ft. radius of 758 Cedar St., including across Apricot Ave. at 740 Cedar St. should have been marked. Staff informed Mr. Henderson of the Damage Prevention Course and 30 days to make the reduced penalty payment of \$250.00 or within 30 days send a letter to the Commission indicating the intention to dispute Staff's findings.

On 03/23/21 Mr. Stallins provide the Show Compliance/Construction report and photographs. The report indicates the damage cause as Insufficient Call and the photographs depict the incident location and damage. **Report & Photographs are included as Attachment 4.**

VIOLATION

KRS 367.4911

(3) Each excavator shall provide each applicable protection notification center with adequate information regarding: (c) The excavation or demolition site location or locations, each of which shall not exceed two thousand (2,000) feet in length unless the excavator and operator agree to a larger area, the city or community, county and street address, including the nearest cross street.

of Offences

(Including this incident)				
Excavator	Last Offence Incident #	Last Offence Incident Date	Last Offence Resolved Date	
1 st	N/A	N/A	N/A	

Attachment 1

Print (PDFForm.aspx?Rpt=GasInvestigation&IG=43377)

Gas Excavation Damage Report

Atmos Energy Corporation

Submitted 2/14/2021 Incident ID 43377

Set back to Edit Staff Edit

Reported By:

Name	Anthony Stallins		
Phone	(270) 779-4849		
Email	anthony.stallins@atmosenergy com		
as Line Incider	nt Occured:		
Date	1/29/2021		
Time	12:40 PM		
etails:			
Reported Date	1/30/2021 7:58 AM		

Incident Location Address:

Location	740 CEDAR, CALVERT CITY/ Paducah
Address	740 Cedar St
City	Calvert City
State	KY
County	Marshall
Zip	42029
Confirm Code	Y
Number of Customers out	2
Was gas or hazardous liquids contained in the underground facility?	
Was gas or hazardous liquids released into the atmosphere?	☑ • 3/2020
Locate Request Ticket No.	2101261454
Excavator	Contractor
Excavator Address:	
EL AN	T

First Name	Tony
Last Name	Henderson
Organization ID	
Company	Tony Henderson Plumbing
Phone	270-703-0215/270-210-0131
Email	tonyh@mchsi.com

	Address	163 Mulberry Dr
	City	Gilbertsville
	State	KY
	Zip	42044
	Confirm Code	Y
	Excavation Damage	One Call notification practices not sufficient
Summersulatorma	Description of incident	Cut 3/4" PE service line. Locate ticket (wrong address). Two customers off. No injuries.
Summary Informa	luon	
2/14/2021	Full details such as the cause Extent of the damage Cost of the damage Steps taken to prevent re-occurance Amount billed to excavator	Tony Henderson Plumbing, repairing a water leak, cut a 3/4" PE service line with a backhoe. Tony Henderson Plumbing had called KY 811 for a locate ticket (2101261454). The ticket was called in for 758 Cedar St, "Locate the rear of the building with 100 foot radius". The service was cut across the street (Apricot Ave) from 758 Cedar St, in the back yard of 740/738 Cedar St (duplex). The damage was due to the wrong, insufficient dig site information (correct address) being provided to KY 811. The damage PE was repaired and service restored to the two affected customers. \$867.00 Tony Henderson Plumbing was made aware of the need to provide a correct addresses on their locate tickets. \$867.00

Attachment 2

Ticket : 2101261454 Date: 01/26/2021 Time: 16:07 Oper: JCOONEY Chan:000 State: KY Cnty: MARSHALL City: CALVERT CITY Subdivision: Address : 758 Street : CEDAR ST Cross 1 : APRICOT AVE Location: LOCATE THE THE REAR OF THE BUILDING WITH A 100 FOOT RADIUS : Boundary: n 37.022888 s 37.021074 w -88.349741 e -88.347446 Work type : REPAIRING WATER LEAK Done for : HOUSING AUTHORITY OF BENTON Start date: 01/28/2021 Time: 16:15 Hours notice: 48/48 Priority: NORM Ug/Oh/Both: U Blasting: NO Emergency: N Duration : N/A Depth: 6 FEET Company : TONY HENDERSON PLUMBING Type: OTHR Co addr : 163 MULBERRY DRIVE City : GILBERTSVILLE State: KY Zip: 42044 Caller : SCOTT MARTIN Phone: (270)210-0131 Contact : SCOTT MARTIN - CELL Phone: Mobile : (270)703-0215 Email : TONYH@MCHSI.COM Submitted date: 01/26/2021 Time: 16:07

NORMAL NOTICE

Members: 0135 0725 WINKY

Attachment 3

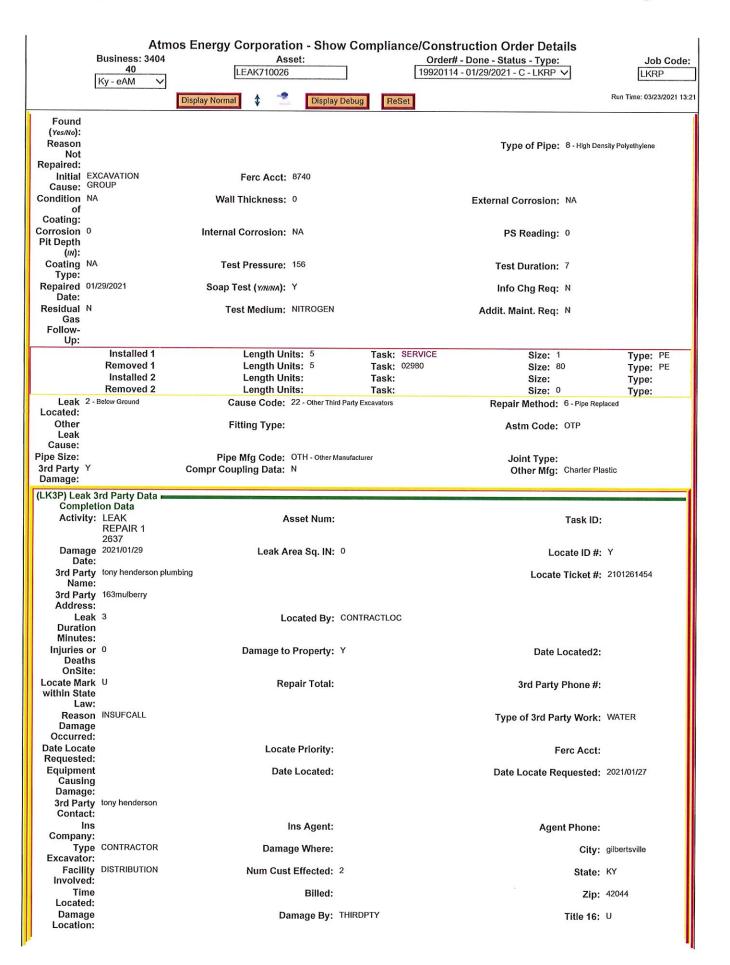


Attachment 4

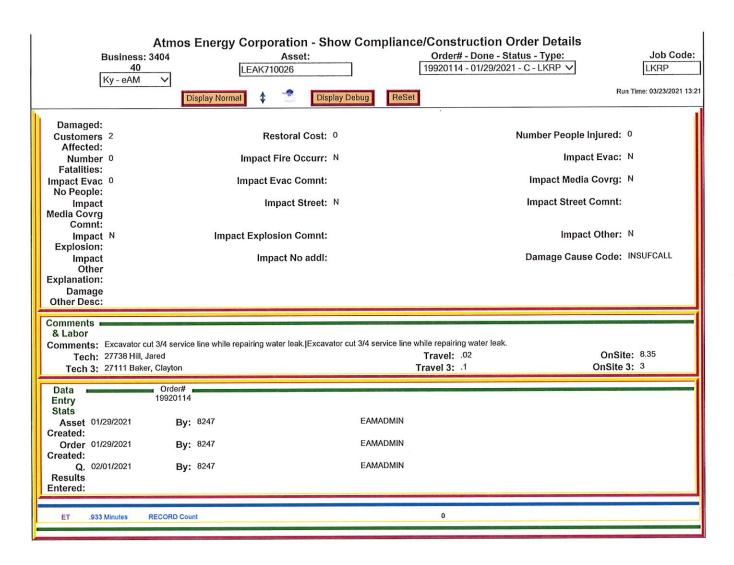
Show Compliance/Construction Order Details

Atmos Energy Corporation - Show Compliance/Construction Order Details Job Code: Asset: Order# - Done - Status - Type: Business: 3404 19920114 - 01/29/2021 - C - LKRP V 40 LKRP LEAK710026 V Ky - eAM Run Time: 03/23/2021 13:21 **Display Normal** t **Display Debug** ReSet Job Details 🤍 Done: 01/29/2021 Source: Qk **Status Complete** Office: PADUCAH Type: Region: NORTHERN SubRegion: West Central District: In MA: Schedule Data Start 01/30/2021 Interval: 0 Printed: Print Date: Base Date: Date: Asset Description Asset LEAKS Asset#: LEAK710026 Parent Asset#: LKS (2637) Group: Asset 740 CEDAR 1201600 CALVERT CITY Activity: LEAK REPAIR 1 2637 **Description:** Status: InActive Owning WB2637 Child Assets: Department: Location Physical Information GPS 37.02219 GPS Longitude: -88.34835 GPS Altitude: 0 Latitude: State: KY Address: 740 CEDAR Town/City: 1201600 CALVERT CITY DST: Time Zone: In/Outside INSIDE Cross Street: apricot **City Limits:** Other Location Information: Class Location: 3 Map Number: County: 21157 MARSHALL **Control Code:** Property 92701 MARSHALL, CALVERT CITY, CALVERT CTY & COM SCH Tax Code: School District: Land **Description:** Certificate of Occupancy Required: City Inspection Required: Location Additional Information WorkArea/SubArea: KYPADUCA **Read Sequence:** PipeLine #: **Station Number: Corrosion Section:** Project Number: System Number: Printer Name: noprint **Task Number: Pipeline Balance** Code: Facilities Classification: DIST **Operation Area: KYPAD** Rate Division: 009 Retirement Unit Non Unitized Retirement Unit Zip: Name: Related SAP SO 100018778200 Number: Leak Data Time Classified: 12:50:17 Leak Grade: 1 Date 2021/01/29 12:40 Found: Leak Grade 11200 Schmidt, Richard Grade 2 Interval: CGI Reading: 100 By: Apparent SERVICE Population Density: RES Unit of Measure: % GAS Location: Ft To 50 Surface Type: DIRT **Building:** Leak Located (LKFD - 2): 2 - Below Ground Leak DUG UP INLET RISER Leak Repaired: N Location: Comments: line not marked (LKRP) Leak Repair **Completion Data** Facility Involved: 2 - Service Origin of Leak: 2 - Body of Pipe Leak

https://dads.atmosenergy.com/pls/blueprint/blueprint.OrderDsc?Asset=LEAK710026



	isiness: 3404 40	Asset: LEAK710026			# - Done - Status - Type: 4 - 01/29/2021 - C - LKRP ∨	Job Code
Ку	r-eAM ∨					Run Time: 03/23/2021 1
		Display Normal	Display Debug	ReSet		Null Time. 00/20/20/21 1
FAC Material B Damage:	BODYOFPIPE	FAC Release	e Plan: Y		One Call Code:	yes
FAC 911 U Damage	J	FAC Locate	Code: INTRA		FAC Pipe Diameter:	0
Call: Excavator Y Call:		Excavator	Ficket: 210126145	54	Excavator Notify Oper:	U
Pipeline IS: A Prod Trans Code:	CTIVE	Pipeline Ma Fire Comr	aterial: POLYPLAS ments:	S	Pipeline Year: Type of Injury:	
Mark ∺ Positive		Mark 2nd Cal	ll Rsn:		Mark 2nd Call Oth:	
Response: Mark 2nd Call Ticket:		Mark 2nd Call	Date:		Mark 2nd Call Resp:	
Mark ∷ Positive Response:		Mark Why and	d Rsn:		Mark Why Other:	
Mark ⁰ Variance Inches:		Locator Other Ex	xplain:			
SubDivision: Lat Long D LkUp:	ECIMAL		dress: 740 cedar itude: 37.02219		Incident Time: Longitude:	
Tech 3: 2	7111 Baker, layton	Tra	avel 3: .1		OnSite 3:	3
LK3P) RRC Lea						
	eak Epair 1	Asset Nu	m:		Task II	D:
Date of 20 Damage:	537)21/01/29	Excavator Nam	e: tony henderson	plumbing	Excavator Address	: 163mulberry
Excavator gil City:	bertsville	Excavator Stat	te: KY		Excavator Zip	3: 42044
Excavator to Contact Name:	ny henderson	Excavator Phon	ie:		Excavator Fax	c:
Excavator U EMail:		Excavator Type Cod		t i i i i i i i i i i i i i i i i i i i	Excavation Type	: :
Work W Performed Code:	ATER	Excavator Depth F	=t: 0		Excavator Depth Ir	n: 0
Nas Called: N State: Ki	,	Incident N			Country	
ac Affected Di	ricot	RightOfWay Typ Fac Damaged Depth F			Address Fac Damaged Code Fac Damaged Depth Ir	
Code: Joint ∪ Trench:		OneCall Membe	er: Y		Locate Reques	
OneCall ye Center Code:	S	OneCall Ticket	#: 2101261454		OneCall Ctr Notified Date	2021/01/27
Locate Org CC Code:	ONTRACTLOC	Locator Nam	e: heath		Fac Marks Visible	: N
Fac Marks Correct: Marked		Marked Variance F Marked Loc. Meth Oth			Marked on Time	
Locate Method:					Marked by Pain	
Marked by Flags: Marked By N		Marked by Othe Marked Spec Instruction			Marked by Other Comn Marked Using Maps	
White Lining: Marked 48 U		Marked Loc Met with Ex	c: U			
HR Notice: Marked U		Marked Procedure Use			Marked Reps OnSite Marked Positive Response	
Second Call: Excavator U		Excavator Down Time	e: -1		Excavator Down Cost	:



Atmos All Clear Flag in yard of 758 Cedar St. where locate was called in.



Picture of duplex 740-738 Cedar St where damage occurred.



Picture showing equipment in the yard of 740-738 Cedar where damage occurred.



Picture of damage.



Picture showing damage from Apricot Ave.



Tout, Eric V (PSC)

From:	Stallins, Anthony A <anthony.stallins@atmosenergy.com></anthony.stallins@atmosenergy.com>
Sent:	Tuesday, March 23, 2021 2:50 PM
То:	Tout, Eric V (PSC)
Subject:	RE: 43377, 1/29/2021, 740 Cedar, Calvert City, Tony Henderson Plumbing
Attachments:	Damage from Apricot Stjpg

Eric,

Picture showing damage from Apricot Ave.

Thanks, Anthony

From: Stallins, Anthony A <Anthony.Stallins@atmosenergy.com>
Sent: Tuesday, March 23, 2021 1:48 PM
To: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Cc: Stallins, Anthony A <Anthony.Stallins@atmosenergy.com>
Subject: RE: 43377, 1/29/2021, 740 Cedar, Calvert City, Tony Henderson Plumbing

Eric,

Picture showing equipment in the yard of 740-738 Cedar where damage occurred. Picture of damage.

Thanks, Anthony

From: Stallins, Anthony A <<u>Anthony.Stallins@atmosenergy.com</u>>
Sent: Tuesday, March 23, 2021 1:45 PM
To: Tout, Eric V (PSC) <<u>ericv.tout@ky.gov</u>>
Cc: Stallins, Anthony A <<u>Anthony.Stallins@atmosenergy.com</u>>
Subject: RE: 43377, 1/29/2021, 740 Cedar, Calvert City, Tony Henderson Plumbing

Eric,

Atmos All Clear Flag in yard of 758 Cedar St where locate was called in.

Picture of duplex 740-738 Cedar St where damage occurred.

Anthony

From: Stallins, Anthony A <<u>Anthony.Stallins@atmosenergy.com</u>> Sent: Tuesday, March 23, 2021 1:29 PM To: Tout, Eric V (PSC) <<u>ericv.tout@ky.gov</u>> Cc: Stallins, Anthony A <<u>Anthony.Stallins@atmosenergy.com</u>> Subject: 43377, 1/29/2021, 740 Cedar, Calvert City, Tony Henderson Plumbing

Eric,

Atmos Report for the damage at 740 Cedar St in Calvert City. I will forward you the pictures.

Thanks, Anthony

From: Tout, Eric V (PSC) <<u>ericv.tout@ky.gov</u>> Sent: Tuesday, March 23, 2021 11:32 AM To: Stallins, Anthony A <<u>Anthony.Stallins@atmosenergy.com</u>> Subject: [EXT] 43377, 1/29/2021, 740 Cedar, Calvert City, Tony Henderson Plumbing

CAUTION: Don't be quick to click. This e-mail originated from outside of Atmos Energy. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Anthony,

Getting push back on this one may go the hearing, will need damage report and all photos.

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 Tony Henderson Plumbing 163 Mulberry Dr. Gilbertsville, KENTUCKY 42044