

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

WILKINS CONSTRUCTION COMPANY, INC.)	
)	
_____)	CASE NO.
)	2021-00237
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

Wilkins Construction Company, Inc. (Wilkins Construction) 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 Wilkins Construction 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 Wilkins Construction 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. Wilkins Construction 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.

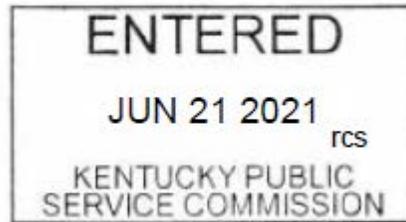
2. **Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.**

3. The Staff Incident Report 43318 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 Wilkins Construction 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 for

Case No. 2021-00237

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00237 DATED JUN 21 2021

TEN PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Eric V. Tout Incident Date 1/4/2021 7:40:00 AM	Incident ID 43318 Key 7112 Report Submitted 1/5/2021 3:32:14 PM
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OPERATOR INFORMATION

Operator Benton Gas System City of Benton Phone 270-527-3717 Incident Location 611 Poplar 611 Poplar St Benton, KY 42025 Marshall	Reported By Brittany Canup Email bcanup@bentongas.org Locate Ticket Number none
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EXCAVATOR INFORMATION

Name of Excavator Byers, Chuck Phone 270-442-8174 Excavator Address Wilkins Construction Company, Inc. 514 Louisiana St Paducah, KY 42003	Organization ID 0055862 Email lisa@wilkinsconstruction.net Locate Ticket Number
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INCIDENT

The Operator reports that the Excavator damaged a ¾ inch gas service driving a steel pin. The Damage Report (DR) indicates no Locate Ticket (LT) was obtained, the facility was not marked or located, and a Locate Ticket (LT) was called in, but expired.

The DR is include as Attachment 1.

DR Summary

Excavation Within 18" (Approximate Location)	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
Expired/No ticket	Mechanized / Driving a steel pin	\$279.00	\$279.00

INVESTIGATION

On 01/29/21, via email, the Operator, Benton Gas's Brittany Canup, stated that no LT could be found and the Excavators stated that their LT was expired.

Ms. Canup's email is include as Attachment 2.

On 02/01/21, via email, 811, Carly Dunsmore, stated that a records search from 11/01/20 thru 02/01/21 revealed the Excavator obtained no LTs for the incident location/date.

Ms. Dunsmore email is include as Attachment 3.

On 02/10, 11 & 12/21 an attempt in contacting the Excavator at 270-442-8174 resulted in a message stating that you have reached Wilkins Construction Company wherein a voice message was left.

On 02/12/21 Lisa of Wilkins Construction Company (270-442-8174) left a message that they have been out due to the weather and the damage to Benton Gas's facility was paid, \$282.00.

On 02/15 & 18/21 a return call was made to Lisa.

On 02/19/21 the Excavator, Wilkins Construction's Brad Wilkins, stated that no call was made to 811 prior to the damage. Mr. Wilkins was receptive to attending the Damage Prevention Course and paying the reduced penalty of \$250.00.

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.

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

Gas Excavation Damage Report

Benton Gas System City of Benton

Submitted 1/5/2021 Incident ID 43318

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=43318\)](#)

Reported By:

Name	Brittany Canup
Phone	270-527-3717
Email	bcanup@bentongas.org

Gas Line Incident Occured:

Date	1/4/2021
Time	7:40 AM

Details:

Reported Date	1/5/2021 3:24 PM
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Incident Location Address:

Location	611 Poplar
Address	611 Poplar St
City	Benton
State	KY
County	Marshall
Zip	42025
Confirm Code	Y

Number of Customers out	1
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Was gas or hazardous liquids contained in the underground facility?	<input checked="" type="checkbox"/>
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Was gas or hazardous liquids released into the atmosphere?	<input checked="" type="checkbox"/>	*
		3/2020

Locate Request Ticket No.	none
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Excavator	Contractor
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Excavator Address:

First Name	Chuck
Last Name	Byers
Organization ID	
Company	Wilkins Construction
Phone	270-442-8174
Email	lisa@wilkinsconstruction.net

Address 514 Louisiana St
City Paducah
State KY
Zip 42003
Confirm Code Y
Excavation Damage Facility was not located or marked

Description of Incident Drove steel pin through 3/4" plastic service line. Locate was called in but out of date (expired). Gas blew for 15 mins

Summary Information

1/5/2021

Full details such as the cause Drove steel pin through 3/4" plastic service line.
Extent of the damage Gas blew for 15 minutes.
Cost of the damage \$279.00
Steps taken to prevent re-occurrence Always call 811. If ticket number is out of date, call 811 for a new locate.
Amount billed to excavator \$279.00

Attachment 2

Tout, Eric V (PSC)

From: Brittany Canup <bcanup@bentongas.org>
Sent: Friday, January 29, 2021 2:20 PM
To: Tout, Eric V (PSC)
Subject: RE: 43318, 1/4/2021, 611 Poplar St, Benton, Wilkins Construction

Hi Eric.

We can not find a locate from them. They told us when we asked them about it that if they had one then it was expired (meaning after the 21 days).

Benton Gas was not at fault.

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Friday, January 29, 2021 7:06 AM
To: Brittany Canup <bcanup@bentongas.org>
Subject: 43318, 1/4/2021, 611 Poplar St, Benton, Wilkins Construction

Morning Brittany,

Need some clarification on this one. The Damage Report (DR) indicates no Locate Ticket (LT) was obtained, the facility was not marked or located, and a LT was called in, but expired. Which is it? If the LT is expired what evidence do you have to prove this accusation? Will need a LT# to prove this. And/or If this was not marked is Benton Gas taking reasonability? If not taking responsibility please provide evidence stating otherwise.

*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*

Attachment 3

Tout, Eric V (PSC)

From: Carly Dunsmore <cdunsmore@usa811.org>
Sent: Monday, February 1, 2021 9:26 AM
To: Tout, Eric V (PSC)
Cc: PSCrequest@kentucky811.org
Subject: Re: 43318

Good morning Eric,

We searched between 11/1/2020 and 2/1/2021 and were unable to find any ticket submitted by Wilkins Construction Company, for address 611 Poplar Street, in Marshall County. If you have any other information, please let me know.

Thank you,

Carly Dunsmore
Member Services
P: 833-538-0923
F: 317-386-7820



On Mon, Feb 1, 2021 at 6:09 AM Tout, Eric V (PSC) <ericv.tout@ky.gov> wrote:

Please provide locate ticket for:

Incident Date: 1/4/2021
Operator: Benton Gas System City of Benton
Incident Location: 611 Poplar St., Benton, KY
County: Marshall
Excavator: Wilkins Construction Company

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

Brad Wilkins
514 Louisiana St.
Paducah, KENTUCKY 42002

Wilkins Construction Company, Inc
P.O. Box 3027
Paducah, KENTUCKY 42002