# COMMONWEALTH OF KENTUCKY BEFORE THE PUBLIC SERVICE COMMISSION

n the Matter of:		
L & N UTILITIES LLC	)	OACE NO
<del></del>	)	CASE NO. 2021-00266
ALLEGED VIOLATION OF UNDERGROUND FACILITY DAMAGE PREVENTION ACT	) )	

#### OPENING ORDER

L & N Utilities LLC (L & N) 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).<sup>1</sup>

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,

<sup>&</sup>lt;sup>1</sup> 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 L & N 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 L & N 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. L & N shall submit to the Commission, via email sent to <a href="PSCED@ky.gov">PSCED@ky.gov</a> 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 32412 in the Appendix to this Order is made a part of the record in this case.

-2-

4. Please note that notice of a hearing to be held in this matter will be mailed to L & N 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

JUN 25 2021 rcs
KENTUCKY PUBLIC SERVICE COMMISSION

ATTEST:

**Executive Director** 

#### **APPENDIX**

## APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2021-00266 DATED JUN 25 2021

SIXTEEN PAGES TO FOLLOW

#### PIPELINE DAMAGE INVESTIGATION REPORT

#### **Investigation Information**

KY PSC Investigator(s) John E. Gowins Incident ID 32412

Incident Date 1/17/2020 11:40:00 PM Report Submitted 2/6/2020 1:06:49 PM

#### **OPERATOR INFORMATION**

Operator Columbia Gas of Kentucky, Inc. Reported By Ryan Twait

Phone (859) 533-4022 Email rmtwait@nisource.com

Incident Location
1164 Colorado Rd
Lexington, KY 40509

Locate Ticket Number 2001080598

Fayette

#### **EXCAVATOR INFORMATION**

Name of Excavator Melton, Shane Organization ID
Phone 580-919-0905 Email

Phone 580-919-0905

Excavator Address
L and N Utilities
4162 W County Road 250

**Locate Ticket Number** 

Holton, IN 47023

#### **INCIDENT**

		Loc	ate Ticket Sum	mary		
Ticket #	Valid	Initial Date	Expiration Date (21 calendar days from Initial date)	Incident Date	# of Days Expired	Within Scope of Excavation
2001080598	Yes	1/8/20	1/29/20	1/17/20	N/A	Yes

	<b>Excavation Summary</b>		
Excavation Within Tolerance Zone	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
Yes	Mechanized	\$1161.00	\$1161.00

The operator reports that L&M Utilities was boring in an area with a locate ticket. L&M Utilities was boring with mechanized equipment within the tolerance zone of a properly marked main line. While boring, L&M Utilities severed a plastic half-inch natural gas service line.

#### **INVESTIGATION**

This would be the company's first violation.

#### October 7, 2020

- Received an email from Columbia that they were called out to damage at 1168 (Incident #32413 and discovered this damage.
- A review of the dig ticket indicates the correct company name is L and N Utilities.
- Called 580.919.0905, left a v.m. While leaving a v.m., received a call identified as coming from a Penny Sizemore. On a free reverse phone lookup website, her location was the city of Holton in Indiana. Called this back, went to same v.m.

#### October 14, 2020

• Spoke with Mr. Melton, he acknowledged his employees were responsible and agreed to the reduced penalty and remedial.

#### **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.

### Gas Excavation Damage Report

#### Columbia Gas of Kentucky, Inc.

Submitted 2/6/2020 Incident ID 32412 Set back to Edit Staff Edit Print (PDFForm.aspx?Rpt=GasInvestigation&IG=32412) Reported By: Name Ryan Twait Phone (859) 533-4022 Email rmtwait@nisource.com Gas Line Incident Occured: 1/17/2020 Date 11:40 PM Time Details: Reported Date 2/6/2020 1:02 PM Incident Location Address: Location Address 1164 Colorado Rd City Lexington State ΚY County Fayette 40509 Zip Confirm Code **Number of Customers out** Was gas or hazardous liquids contained in the underground facility? Was gas or hazardous liquids released into the 3/2020 atmosphere? Locate Request Ticket No. 2001080598 Excavator Contractor **Excavator Address:** First Name Shane **Last Name** Melton Organization ID Company L&M Utilities Phone 580-919-0905 Email

4162 W County Road 250 S Address

City Holton State IN

47023 Zip

Confirm Code

**Excavation Damage** Failure to test-hole(pot hole)

L&M Utilities bored into a plastic half inch natural gas service line with mechanized equipment. **Description of Incident** 

#### **Summary Information**

2/6/2020

L&M Utilities was boring in an area with a locate ticket. L&M Utilities was Full details such as the boring with mechanized equipment within the tolerance zone of a properly

marked main line. While boring, L&M Utilities severed a plastic half inch cause

natural gas service line.

A plastic half inch service line was severed, and the service line was Extent of the damage

repaired. Cost of the damage \$1,161.00

Steps taken to prevent the proper methods to pot hole service lines prior to boring within the

re-occurance

tolerance zone of a marked facility. Amount billed to

\$1,161.00 excavator

#### NORMAL NOTICE

Ticket: 2001080598 Date: 01/08/2020 Time: 10:49 Oper: TCARNEY Chan:000

State: KY Cnty: FAYETTE City: LEXINGTON

Subdivision:

Address :

Street : COLORADO RD

Cross 1 : PLEASANT RIDGE DR

Location: STARTING AT THE NORTHEAST CORNER OF THE INTERSECTION, LOCATE GOING WEST APPROX 300 FEET ON THE NORTH SIDE OF THE ROAD ENDING AT RED STONE DRIVE

:

Boundary: n 38.013047 s 38.011874 w -84.408645 e -84.406140

Work type : INSTALLING CONDUIT
Done for : BLUE JAY COMMUNICATIONS

Start date: 01/10/2020 Time: 11:00 Hours notice: 48/48 Priority: NORM

Ug/Oh/Both: U Blasting: NO Emergency: N

Duration : N/A Depth: 4 FEET

Company : L AND N UTILITIES LLC Type: CONT

Co addr : 4162 W CO RT 250 S

City : HOLTON State: IN Zip: 47023

Caller: SHANE MELTON Phone: (580)919-0905

Contact : SHANE MELTON - CELL Phone:

Mobile : (580)919-0905

Email : LANDNUTILITIES@GMAIL.COM

Submitted date: 01/08/2020 Time: 10:49

Members: 0200 0237 0326 0370 0700 2621 WINKY

#### Gowins, John E (PSC)

From: rmtwait@nisource.com

Sent: Monday, October 5, 2020 1:33 PM

**To:** Gowins, John E (PSC) **Subject:** Re: Incident # 32412

Hi John,

Here are the pics, and the Facility Damage Report:



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□ 6 - OTHER(COMMENTS	REQUIRED)		DS-STEEL					-/ -	
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2 13-CONSTSTRUCTION/M/		-	DE FORCE-ELECT	RICAL ARCING			PC-EXC	AVATION -EXCAVA	ATOR ERROR
☐ 14-CONSTRUCTION/MAIN ☐ 15-CONSTRUCTION/MAIN		☐ 26-OUTSI	DE FORCE DE FORCE-FIRE/EX	THE OCION				CAVATION - POOR	RECORDS
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WHO FILLS OUT WHAT? PLANT - SERVICE - FOL - PLANT OR SERVICE

Ryan Twait Manager, Operations Compliance Columbia Gas of Kentucky

Cell: 859-533-4022 Office: 859-288-0234



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From: "Gowins, John E (PSC)" <john.gowins@ky.gov>
To: "rmtwait@nisource.com" <rmtwait@nisource.com>,

Date: 10/05/2020 01:18 PM Subject: Incident # 32412

USE CAUTION: This email was sent from an external source. Think before you click links or open attachments. If suspicious, please forward to security@nisource.com for review.

Ryan,

Just wondering if you have any additional documentation on this one. Thanks.

John E. Gowins Consumer Complaints Investigator II Division of Inspections Kentucky Public Service Commission 502.782.2656





#### **Business Details**

**Print Entity Details** 

Business L & N UTILITIES, LLC Business ID: 201910291353976

**Domestic Limited** Business Entity Type: Active Status: **Liability Company** 

Creation Date: 10/29/2019 Inactive Date:

Principal 4162 W. County Road

Expiration Perpetual Office 250 S, Holton, IN, Date:

Address: 47023, USA

**Business** 

Jurisdiction of **Indiana** Entity Report 10/31/2021 Formation:

Due Date:

Years Due:

#### **Principal Information**

Title	Name	Address
Member	Shane Melton	4162 W. County Road 250 S., Holton, IN, 47023, USA

Page 1 of 1, records 1 to 1 of 1

#### **Registered Agent Information**

Type: Individual

Name: Shane Melton

Address: 4162 W. County Road 250 S., Holton, IN, 47023, USA

Back Filing History Name History **Assumed Name History** 

Return to Search Certified Copies Request

#### Gowins, John E (PSC)

From: rmtwait@nisource.com

**Sent:** Wednesday, October 7, 2020 10:24 AM

**To:** Gowins, John E (PSC)

**Subject:** Re: Incident # 32413 & 32412

Hi John,

On this damage, we were called out to 1168 Colorado Rd on January 17 at 11:34 pm. The customer stated that they did not have gas pressure. We showed up and determined that there was a damaged service line that was going to 1168. We then expanded our investigation and determined that there was also another line that was damaged at 1164 Colorado Rd.

We made the situation safe, and repaired both lines on January 18. Here is the original "no gas" order we initially responded to, other facility damage report and pictures for 1168 (1164 pics and FDR are in the email I sent previously):

OPER ACTION ==> EXECUTE ORDER DETAIL 32 262 CUST NAME DUSTIN H ROSE PCID SERV ADDR 1168 COLORADO RD CITY LEXINGTON ST KY ZIP 405092408 NON ORDER ORDER ORDER ORDER SEO 44 TYPE EI STATUS E CODE LOCATION 2621 REQUESTED BY SADC CODE B5 PRINT TERMNO DAY COUNT 0 METER READING 0000 FGA ORDER ENTRY TERMNO MDT SERVICE PERSON MICHAEL W PETTUS OPERID MPETTUS DATE SCHED 01-17-2020 ARR SERVICE REMARKS CALL CUST ARR 12 MOS=00 PR/NO GAS MULTIPLE APPL AFFECTED FOR LAST 12 STIN H ROSE/THERE/(859) 979-2894/XST PLEASANT RIDGE RED NIMALS/TOC 2334/U130353/MSHECKL/PA DROPPED METER OPEN VLVE NO GAS PASSING CGI SL FOUND 40%

F1=HELP F2=WRK-FUN F3=QUIT F4=ORD-TAK

F9=INO-CTL F10=EX-CTL F11=TAK-CTL F12=INFO

OPER	ACTION	==>	EXECUTE	ORDER	DETAIL
			ADDITIONAL	SERVIC	E REMARKS

TAP CIG MAIN FOUND 40 LEL 30 FT FROM TAP OVE ADVISED OVER MAIN GRADE 2 + LEAK DRAWN UP TO BE FIXED TOMORRO SUSPECTED LINE BREAK BORING WORK DONE EARLIER IN DAY

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21 - Natural Forces-Rain/Wind/Snow/	ice LINE MARKI	NGS	44.21	
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2 - Yes, Other Method	*HOW FACILITY MARKED;	MARKS/MARKE	RS IN TOLERANCE ZONE: 9	YYES   NO
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2 Other or Above Ground	□ . 6 - N/A		ATOR NOTIFIED OF DAMAGE	
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11 - Company Crew (1 <sup>st</sup> Party) 12 - Company Contractor (2 <sup>st</sup> Party)	-		LIC. PLATE NO:	STATE
<ul> <li>13 - Municipal/State Crew</li> <li>14 - Municipal/State Contractor</li> </ul>	LOCATED AT: 4162 WE			
15 - Other Utility Crew 16 - Other Utility Contractor			IN ZIP CODE 47023	
7 - Private Individual 3 - Private Contractor	OFFICE/HOME PHONE: ()			
t3 - Natural Forces t5 - Unknown	E-MAIL ADDRESS:			
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