

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DEAN HEDGES LANDSCAPE SPECIALISTS, INC.)	
)	
_____)	CASE NO.
)	2021-00035
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

Dean Hedges Landscape Specialists, Inc. (Dean Hedges Landscape Specialists) 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 Dean Hedges Landscape Specialists 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 Dean Hedges Landscape Specialists 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. Dean Hedges Landscape Specialists 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**

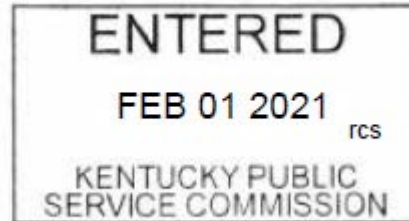
Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.

3. The Staff Incident Report 32367 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 Dean Hedges Landscape Specialists 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

Case No. 2021-00035

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00035 DATED FEB 01 2021

THIRTY-EIGHT PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Eric V. Tout Incident Date 12/17/2019 9:12:00 AM	Incident ID 32367 Report Submitted 1/14/2020 11:58:17 AM
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OPERATOR INFORMATION

Operator Louisville Gas and Electric Company Phone (502) 364-8281 Incident Location 7606 Highway 329 Crestwood, KY 40014 Oldham	Reported By Mike Jones Email Mike.Jones@lge-KU.com Locate Ticket Number NA
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EXCAVATOR INFORMATION

Name of Excavator Hedges, Dean Phone 502-241-5534 Excavator Address Dean Hedges Landscape Specialists 7606 Highway 329 Crestwood, KY 40014	Organization ID 0409436 Email Locate Ticket Number
--	---

INCIDENT

The Operator reports that the Excavator damaged a ½ inch gas service, with a mini-track hoe, to correct water build up on the property and failed to contact the Protection Notification Center (811).

The Damage Report is include as Attachment 1.

Excavation Summary

Excavation Within 18" (Approximate Location)	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
No call to 811	Mechanized / Mini-track Hoe	\$580.00	\$0.00

INVESTIGATION

On 09/14/20 an attempt to contact the Excavator Dean Hedges (502-241-5534) resulted in a message stating that this number has been disconnected.

On 09/14/20 the Operator, LG&E's Mike Jones, stated 502-241-5534 is the only number LG&E has for Mr. Hedges.

On 09/15/20 an attempted to contact the Excavator at 502-241-5334 resulted in speaking to Slade and Slade stated that he felt a Locate Ticket (LT) was obtained for this incident and he would call back with the LT number.

On 09/15/20, via email, 811, Carly Dunsmore, stated that from 11/01/19 through 01/31/20 no record could be found indicating the Excavator made a call to 811 requesting locates for the above noted incident location.

811 email is include as Attachment 2.

On 09/16/20 Slade stated that no ticket could be found and Mr. Hedges will return my call.

On 09/17/20 a follow-up call to Mr. Hedges resulted in a message being left.

On 09/18/20 Mr. Hedges stated that no excavating occurred, weed clearing of a ditch line was being conducted with weed eaters at the back of his property. Mr. Hedges stated that a cap above grade was damage with a spade. Mr. Hedges stated that they do landscaping and their spades are very sharp and no mini-track hoe was in use.

On 09/18/20 the Operator, LG&E's Mike Jones provided a photograph depicting the incident location indicating that no weed remove was occurring, snow on the ground, the damage occurred well below grade and the equipment used was a mini-track hoe.

Mr. Jones's photograph is include as Attachment 3.

On 09/21 & 22/20 a call to Mr. Hedges, to discuss the above noted photograph, resulted in a message being left.

On 09/23/20 a call to Mr. Hedges, to discuss the above noted photograph, resulted in a message being left with Slade indicating a Demand Letter will be sent imposing the penalty of \$2,000.00.

On 09/23/20 Mr. Jones provided additional photographs indicating this damage occurred below grade and the damage report indicating no locate ticket was obtained.

Photographs and Damage Report are include as Attachment 4.

Note: Exterior Designs, which is depicted on the vehicle door in some of the photographs, and Dean Hedges Landscape Specialists, per the KY Secretary of State, hold the same identification number, 0409436.

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
2 nd	31419	03/26/19	09/19/19

Attachment 1

Gas Excavation Damage Report

Louisville Gas and Electric Company

Submitted 1/14/2020 Incident ID: 32367

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32367\)](#)

Reported By:

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

Gas Line Incident Occured:

Date: 12/17/2019
Time: 9:12 AM

Details:

Reported Date: 1/14/2020 11:52 AM

Incident Location Address:

Location:
Address: 7606 Highway 329
City: Crestwood
State: KY
County: Oldham
Zip: 40014
Confirm Code: Y

Number of Customers out: 0

Was gas or hazardous liquids contained in the underground facility?

Was gas or hazardous liquids released into the atmosphere? *

Locate Request Ticket No.: NA

Excavator: Home Owner

Excavator Address:

First Name: Dean
Last Name: Hedges
Phone: 502-241-5534
Email:
Address: 7606 Highway 329
City: Crestwood

State: KY
Zip: 40014
Confirm Code: Y
Excavation Damage: No notification made to the One Call Center

Description of Incident ?No notification made to the One Call Center. Property owner thought the area was clear. The service was going to an abandoned lot and was laying on solid rock 1 ft deep. We cut and capped service at main. The service was hit with excavator.

Summary Information

1/14/2020

Full details such as the cause Excavator(employee of property owner) was trying to regrade the drain at rear corner of property where water was building up and damaged the unmarked 1/2" curbed gas service. Excavator was using a mini track-hoe. Excavator was clearly at fault because he was digging without any utilities being marked.

Extent of the damage 1/2" service
Cost of the damage \$580.00
Steps taken to prevent re-occurrence I spoke with Mr. Hedges about Dig Law and always calling before, regardless of where he is digging.
Amount billed to excavator \$0.00

Attachment 2

Tout, Eric V (PSC)

From: Carly Dunsmore <cdunsmore@usa811.org>
Sent: Tuesday, September 15, 2020 2:21 PM
To: Tout, Eric V (PSC)
Cc: PSCrequest@kentucky811.org
Subject: Re: 32367

Good afternoon,

We searched from 11/1/19 through 1/31/2020 and were unable to find any tickets submitted by Dean Hedges for address 7606 Highway 329, in Crestwood. If you have any other information, we would be happy to assist you further.

Thank you,

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



On Tue, Sep 15, 2020 at 1:26 PM Tout, Eric V (PSC) <ericv.tout@ky.gov> wrote:

Please provide locate ticket for:

Incident Date: 12/17/2019
Operator: LG&E
Incident Location: 7606 Highway 329, Crestwood
County: Oldham
Excavator: Hedges, Dean

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



CAT

305

305

Tout, Eric V (PSC)

From: Jones, Mike (Auburndale) <Mike.Jones@lge-ku.com>
Sent: Friday, September 18, 2020 3:22 PM
To: Tout, Eric V (PSC)
Subject: RE: 32367, 12/17/2019, 7606 Highway 329 Crestwood, Hedges, Dean

Eric,

I confirmed this equipment is not LG&E's.

From: Jones, Mike (Auburndale)
Sent: Friday, September 18, 2020 1:15 PM
To: 'Tout, Eric V (PSC)' <ericv.tout@ky.gov>
Subject: RE: 32367, 12/17/2019, 7606 Highway 329 Crestwood, Hedges, Dean

Does this help?

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Friday, September 18, 2020 12:51 PM
To: Jones, Mike (Auburndale) <Mike.Jones@lge-ku.com>
Subject: 32367, 12/17/2019, 7606 Highway 329 Crestwood, Hedges, Dean

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

Hello Mike,

Mr. Hedges stated that no excavating occurred, weed clearing of a ditch line was being conducted with weed eaters at the back of his property. Mr. Hedges stated that a cap above grade was damaged with a spade. Mr. Hedges stated that they do landscaping and their spades are very sharp and no mini-track hoe in use.

Do you have any evidence that would dispute this, photos reports showing they were below grade?

*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-20191217-001 Customer Claim #: _____

Site Investigator: Tracy Reesor Date Notified: 12/17/19 09:49:00

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

Damage Location: 7606 Old Zaring rd Crestwood Ky 40014

Date of damage: 12/17/19 09:00:00

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: Distribution 0.5

Depth: < 18" (0.5m) Below Grade

Description and extent of damage: Excavator(employee of property owner) was trying to regrade the drain at rear corner of property where water was building up and damaged the unmarked 1/2" curbed gas service. Excavator was using a mini track-hoe. Excavator was clearly at fault cause he was digging without any utilities begin marked, which caused the damage. I asked Mr. Hedges, owner of Exterior Designs, why he did not call 811 and he said he thought the area back there was clear. He had bought the properties and demolished the houses and thought the gas had been totally removed.

Equipment used: _____

Damaging Company Name: _____

Company Address: _____

Telephone #: _____ Contact name: _____

Working for: _____

Contractor assisting in the repair of damaged facility: LG&E

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

Explain: Mike Whitis Exterior Designs 7601 hwy 329 Crestwood 502-241-5534 Dean Hedges

Was Locate requested?: N Facilities located?: N

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

Were marks visible at time of damage: N



Facts-Based Investigation

Were damaged facilities within scope of ticket?: N



Facts-Based Investigation

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

Comments: _____

Witness: _____ Tel. #: _____

Comments: _____

Witness: _____ Tel. #: _____

Comments: _____

Investigator Findings: _____

Name the responsible party: Excavator Mike Whitis

Give reasons why this party is responsible: _____

Date of Investigation: 12/17/19 Total Investigation Time (Hours): _____

Site Investigator's Name: Tracy Reesor Phone: _____

Site Investigator's Signature: Tracy Reesor Date: 12/23/2019

(OFFICE USE ONLY)

DOCUMENTS ENCLOSED

Other: _____ Other: _____

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

Damage Claims Manager: _____







2019-12-17 10:21:18







2019-12-17 10:21:50





2019-12-17 10:22:19



2019-12-17 10:22:25



2019-12-17 10:22:31







2019-12-17 10:22:55



2019-12-17 10:23:18



2019-12-17 10:23:25



2019-12-17 10:23:28



2019-12-17 10:23:40



2019-12-17 10:24:08



2018-12-17 10:24:25





2019-12-17 10:24:49



2019-12-17 10:39:32



2019-12-17 10:39:40

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