

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FER-CO ENTERPRISES, INC.)	
)	
_____)	CASE NO.
)	2021-00202
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

Fer-Co Enterprises, Inc. (Fer-Co) 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 Fer-Co for violation of the following provision of the Act:

KRS 367.4911(2) – Locate requests are valid for twenty-one (21) calendar days from the day of initial request.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds prima facie evidence that Fer-Co 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. Fer-Co 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.

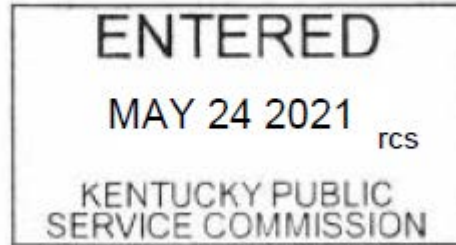
2. **Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.**

3. The Staff Incident Report 32414 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 Fer-Co 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:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00202 DATED MAY 24 2021

TWENTY-SIX PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Eric V. Tout Incident Date 1/21/2020 6:45:00 PM	Incident ID 32414 Report Submitted 2/6/2020 1:20:41 PM
---	---

OPERATOR INFORMATION

Operator Columbia Gas of Kentucky, Inc. Phone (859) 533-4022 Incident Location 1728 Hilton Ave Ashland, KY 41101 Boyd	Reported By Ryan Twait Email rmtwait@nisource.com Locate Ticket Number n/a
---	---

EXCAVATOR INFORMATION

Name of Excavator Unknown, Unknown Phone 606-922-2322 Excavator Address Fer-Co Enterprises, Inc. 7731 McComis Dr. Catlettsburg, KY 41129	Organization ID 0433919 Email hhmbc@gmail.com Locate Ticket Number
--	---

INCIDENT

The Operator reports that the Excavator damaged a one-inch gas service line, with mechanized equipment, conducting demolition and failed to contact the Protection Notification Center (811).

On 10/12/20, via email, the Operator, Columbia's Ryan Twait stated that this damage occurred underground. **The Damage Report & Mr. Twait's email are 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 / No specified	\$669.00	\$669.00

Locate Ticket (LT) Summary

Ticket #	Valid	Initial Date	Expiration Date (21 calendar days from Initial date)	Incident Date	# of Days Expired	Within Scope of Excavation
1911120962	No	11/12/19	12/03/19	01/21/20	49	Yes

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

INVESTIGATION

On 10/12/20 the Excavator, Fer-Co Enterprise's Jeffery Fergusson, stated that a LT 1911120962 was obtained, he received an all-clear email and the technician from United States Infrastructure Corporation (USIC) before excavation. Mr. Ferguson stated that he received a call from a neighbor, up in the night that his equipment was being moved at the incident location. Mr. Ferguson stated that when he investigated his equipment was intact, but was moved and he noticed excavation across the street from the incident location.

On 10/12/20, via email, 811, Carly Dunsmore, stated that between 09/01/19 and 02/29/20 LT... 0962 was the only LT issued to the Excavator for this incident location.

The 811 email is include as Attachment 3.

A review of LT... 0962 reveled the Excavator obtained it on 11/12/19, with an expiration date of 12/03/19, indicating said LT was expired 49 days prior to the incident date of 01/21/20.

On 10/13/20 the Operator, Columbia's Ryan Twait, provide photographs indicting the damage occurred on the same side of the street as 1728 Hilton Ave. Mr. Twait was unable to state if the damage was associated with the movement of the equipment as describe by Mr. Ferguson.

Mr. Twait Photos are include as Attachment 4.

On 10/15/20, via email, Mr. Twait provided a positive response dated 11/15/19 regarding LT... 0962 indicating an abandon service line on the property, a curb box is marked with paint by another employee and a four-inch main is

across the street.

The Positive Response is included as Attachment 5.

On 10/15/20 an attempt to contact Mr. Ferguson resulted in a message being left.

On 10/16/20 Mr. Ferguson provided LT...0962 which has been outlined above.

Mr. Ferguson's LT is include as Attachment 6.

On 10/27/20 Mr. Ferguson stated he felt he did what was needed to avoid this damage and was not responsible. Mr. Ferguson was informed of his options and was reluctant, but did accept the Damage Prevention Course and reduced penalty of \$250.00. Mr. Ferguson stated he did not want attorney fees.

VIOLATION

KRS 367.4911

(2) Locate requests are valid for twenty-one (21) calendar days from the day of the initial request.

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

Columbia Gas of Kentucky, Inc.

Submitted 2/6/2020 Incident ID 32414

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32414\)](#)

Reported By:

Name	Ryan Twait
Phone	(859) 533-4022
Email	mtwait@nisource.com

Gas Line Incident Occured:

Date	1/21/2020
Time	6:45 PM

Details:

Reported Date	2/6/2020 1:12 PM
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Incident Location Address:

Location	
Address	1728 Hilton Ave
City	Ashland
State	KY
County	Boyd
Zip	41101
Confirm Code	D
Number of Customers out	0
Was gas or hazardous liquids contained in the underground facility?	<input type="checkbox"/>
Was gas or hazardous liquids released into the atmosphere?	<input type="checkbox"/> *
	3/2020
Locate Request Ticket No.	n/a
Excavator	Contractor

Excavator Address:

First Name	Unknown
Last Name	Unknown
Organization ID	
Company	Fer-Co
Phone	606-922-2322
Email	hhmbc@gmail.com

Address	7731 McComis Dr
City	Catlettsburg
State	KY
Zip	41129
Confirm Code	Y
Excavation Damage	No notification made to the One Call Center

Description of Incident Fer-Co struck a plastic one inch natural gas service line with mechanized equipment.

Summary Information

2/6/2020

Full details such as the cause	Fer-Co was conducting demolition with mechanized equipment without a locate ticket. While conducting demolition work, Fer-Co severed a plastic one inch natural gas service line.
Extent of the damage	A plastic one inch natural gas service line was damaged, and the service line was abandoned at the main.
Cost of the damage	\$669.00
Steps taken to prevent re-occurrence	CKY employees advised Fer-Co to always call 811 prior to any excavating activities.
Amount billed to excavator	\$669.00

Tout, Eric V (PSC)

From: rmtwait@nisource.com
Sent: Monday, October 12, 2020 8:10 AM
To: Tout, Eric V (PSC)
Subject: Re: 32414,1/21/2020, 1728 Hilton Ave Ashland, Fer-Co

Hi Eric,

The damaged occurred below ground.

Thanks,

Ryan Twait
Manager, Operations Compliance
Columbia Gas of Kentucky
Cell: 859-533-4022
Office: 859-288-0234



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From: "Tout, Eric V (PSC)" <ericv.tout@ky.gov>
To: "rmtwait@nisource.com" <rmtwait@nisource.com>,
Date: 10/09/2020 08:35 AM
Subject: 32414,1/21/2020, 1728 Hilton Ave Ashland, Fer-Co

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.

Hello Ryan,

Where did this occur, above or below ground?

*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 2

NORMAL NOTICE

Ticket : 1911120962 Date: 11/12/2019 Time: 13:29 Oper: MMOELLER Chan:000

State: KY Cnty: BOYD City: ASHLAND
Subdivision:

Address : 1728
Street : HILTON AVE
Cross 1 : ASHLAND AVE
Location: LOCATE THE FRONT OF THE PROPERTY - FROM HILTON AVE UP THE HILL TO THE
TOP OF THE BANK

:
Boundary: n 38.473087 s 38.471117 w -82.643360 e -82.640292

Work type : CUT DOWN BANK FOR ACCESS DRIVE / DEMOLITION
Done for : CITY OF ASHLAND
Start date: 11/14/2019 Time: 13:45 Hours notice: 48/48 Priority: NORM
Ug/Oh/Both: U Blasting: NO Emergency: N
Duration : N/A Depth: 6 FEET

Company : FER-CO ENTERPRISES INC Type: CONT
Co addr : 7731 MCCOMIS DRIVE
City : CATLETTSBURG State: KY Zip: 41129
Caller : JEFF FERGUSON Phone: (606)922-2322
Contact : JEFF FERGUSON CELL Phone:
Mobile : (606)922-2322
Email : HHMBC10@GMAIL.COM

Submitted date: 11/12/2019 Time: 13:29
Members: 0023 0165 0173 0367

Attachment 3

Tout, Eric V (PSC)

From: Carly Dunsmore <cdunsmore@usa811.org>
Sent: Monday, October 12, 2020 1:52 PM
To: Tout, Eric V (PSC)
Subject: Re: 32414
Attachments: 1911120962.pdf

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

Hello Eric,

We searched between 9/1/2019 and 2/29/2020 and only found ticket 1911120962, which was submitted by Fer-Co Enterprises for address 1728 Hilton Ave. There were no other tickets submitted for this address during that time frame.

The member utilities notified on the ticket were not participating in our Electronic Positive Response at that time, so we are unaware of any Clear/Marked responses. They may have responded to the excavator directly, but we wouldn't have record of that.

If you have any further questions, please let us know.

Thank you,

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



On Mon, Oct 12, 2020 at 12:52 PM Tout, Eric V (PSC) <ericv.tout@ky.gov> wrote:

Hello Carly,

Do you have any records for this this address? The excavator called when I was typing this and gave the Ticket 1911120962. He stated that he was given the all clear that no facilities were at this address. He thinks this may have been given in November 2019?

Please provide the above noted ticket and expand your research to September 2019 involving the Excavator, to include any responses for this address indicating if this was clear or not.

Thanks,

Eric

From: Carly Dunsmore <cdunsmore@usa811.org>

Sent: Monday, October 12, 2020 12:29 PM

To: Tout, Eric V (PSC) <ericv.tout@ky.gov>

Cc: PSCrequest@kentucky811.org

Subject: Re: 32414

Good afternoon,

We searched between 12/1/19 and 2/29/20 but we were unable to find any tickets submitted by Fer-Co Enterprises, for address 1728 Hilton Ave. 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 Mon, Oct 12, 2020 at 12:22 PM Tout, Eric V (PSC) <ericv.tout@ky.gov> wrote:

Please provide locate ticket for:

Incident Date: 1/21/2020

Operator: Columbia Gas of Kentucky

Incident Location: 1728 Hilton Ave, Ashland

County: Boyd

Excavator: Fer-Co Enterprises

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 4

Tout, Eric V (PSC)

From: rmtwait@nisource.com
Sent: Tuesday, October 13, 2020 9:05 AM
To: Tout, Eric V (PSC)
Subject: Re: 32414, 1/21/2020, 1728 Hilton Ave Ashland, Fer-Co Enterprises, Inc.

Hi Eric,

I cannot find any records for LT 1911120962, do you have a copy of the locate ticket?

I have no if the moving of the equipment had anything to do with the damage, but the service line was for the house being demolished:





Ryan Twait
Manager, Operations Compliance
Columbia Gas of Kentucky
Cell: 859-533-4022
Office: 859-288-0234



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From: "Tout, Eric V (PSC)" <ericv.tout@ky.gov>
To: "rmtwait@nisource.com" <rmtwait@nisource.com>,
Date: 10/12/2020 02:27 PM
Subject: 32414, 1/21/2020, 1728 Hilton Ave Ashland, Fer-Co Enterprises, Inc.

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Hello Ryan,

The Excavator stated that a Loacte Ticket 1911120962 was obtained. (This ticket expired 49 day prior to the incident). I need to know if he received an all clear/no facilities email and/or the USIC technician gave an all clear/no facilities for this ticket. He stated he received a call from a neighbor at the incident location, stating one night his equipment was being moved. He stated that when he investigated his equipment was intact, but was moved and he noticed excavation across the street from the incident location. Could this have been where the damage occurred?

*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 5

Tout, Eric V (PSC)

From: rmtwait@nisource.com
Sent: Thursday, October 15, 2020 1:01 PM
To: Tout, Eric V (PSC)
Subject: Re: 32414, 1/21/2020, 1728 Hilton Ave Ashland, Fer-Co Enterprises, Inc.

Eric,

See below for proof of locate execution on the first locate request:

Ryan Twait
Manager, Operations Compliance
Columbia Gas of Kentucky
Cell: 859-533-4022
Office: 859-288-0234



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----- Forwarded by Ryan M Twait/COH/Enterprise on 10/15/2020 12:58 PM -----

From: <cl_irth_comm@irth.com>
To: <rmtwait@nisource.com>,
Date: 10/15/2020 12:51 PM
Subject: Seq# 1: 1911120962 for 0165

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.

0165 00011 KUPIa 11/12/2019 13:36:53 1911120962-00A NORM NEW GRID

NORMAL NOTICE

Ticket : 1911120962 Date: 11/12/2019 Time: 13:29 Oper: MMOELLER Chan:000

State: KY Cnty: BOYD City: ASHLAND
Subdivision:

Address : 1728
Street : HILTON AVE
Cross 1 : ASHLAND AVE
Location: LOCATE THE FRONT OF THE PROPERTY - FROM HILTON AVE UP THE HILL TO THE
TOP OF THE BANK
:
Boundary: n 38.473087 s 38.471117 w -82.643360 e -82.640292

Work type : CUT DOWN BANK FOR ACCESS DRIVE / DEMOLITION
Done for : CITY OF ASHLAND
Start date: 11/14/2019 Time: 13:45 Hours notice: 48/48 Priority: NORM
Ug/Oh/Both: U Blasting: NO Emergency: N
Duration : N/A Depth: 6 FEET

Company : FER-CO ENTERPRISES INC Type: CONT
Co addr : 7731 MCCOMIS DRIVE
City : CATLETTSBURG State: KY Zip: 41129
Caller : JEFF FERGUSON Phone: (606)922-2322
Contact : JEFF FERGUSON CELL Phone:
Mobile : (606)922-2322
Email : HHMBC10@GMAIL.COM

Submitted date: 11/12/2019 Time: 13:29
Members: 0023 0165 0173 0367

Ticket History (All Times in Eastern Time):

11/12/2019 1:36:54 PM: Received
Details: Ticket received for registration code 0165

11/12/2019 1:36:54 PM: Ticket Score Calculated
Details: Risk Percentile calculated. Score value: 0

11/12/2019 1:36:54 PM: Ticket Queued
Details: Ticket queued for delivery

11/12/2019 1:40:51 PM: Ticket Delivered
Details: Ticket successfully sent to a web request device at https://urldefense.proofpoint.com/v2/url?u=https-3A_integrator-2Dns.optimainxdr.com_ticket&d=DwIFaQ&c=Y0zCdXTMOJcLV4Fef-GHbw&r=j_ldSfxgDo0sGOe5WE0gQ-

[rlzkplMILsxagZEigTY-8&m=GkZ-Ixe7noTH9exj0RbLXCQCpR9KPofbdOhtzNp9kH4&s=Z7UeT0JAFrSEWQrCeTrWgCgvwHVlyiNKXAYhzG3LgSE&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_integrator-2Dns.optimainxdr.com_ticket&d=DwIFaQ&c=Y0zCdXTMOJcLV4Fef-GHbw&r=j_1dSfxgDo0sGOe5WE0gQ-rlzkplMILsxagZEigTY-8&m=GkZ-Ixe7noTH9exj0RbLXCQCpR9KPofbdOhtzNp9kH4&s=Z7UeT0JAFrSEWQrCeTrWgCgvwHVlyiNKXAYhzG3LgSE&e=)

11/12/2019 1:51:58 PM: Smart Score Saved

Details: Risk Percentile saved. Score value: 62

11/12/2019 2:27:41 PM: Put in Folder

Details: Put in **Ashland- In House Locates by Jack Johnson

11/12/2019 2:27:42 PM: Ticket Queued

Details: Ticket queued for delivery

11/12/2019 2:27:48 PM: Ticket Delivered

Details: Ticket successfully sent to a web request device at https://urldefense.proofpoint.com/v2/url?u=https-3A_integrator-2Dns.optimainxdr.com_ticket&d=DwIFaQ&c=Y0zCdXTMOJcLV4Fef-GHbw&r=j_1dSfxgDo0sGOe5WE0gQ-rlzkplMILsxagZEigTY-8&m=GkZ-Ixe7noTH9exj0RbLXCQCpR9KPofbdOhtzNp9kH4&s=Z7UeT0JAFrSEWQrCeTrWgCgvwHVlyiNKXAYhzG3LgSE&e=

11/15/2019 8:39:05 AM: Responded

Details: Clear - CKY: added by Brian Cyrus, Locate Time: {2019-11-15 08:37:32}

Notes: Abandon service line on property curb box is marked with paint by another employee 4in main is across the street

11/15/2019 8:39:05 AM: Ticket Queued

Details: Ticket queued for delivery

11/15/2019 8:39:05 AM: Positive Response to Excavator Queued

Details: Positive Response to Excavator queued for delivery

11/15/2019 8:39:05 AM: Positive Response to Excavator Delivered

Details: Positive Response to Excavator successfully sent to HHMBC10@GMAIL.COM

11/15/2019 8:39:18 AM: Ticket Delivered

Details: Ticket successfully sent to a web request device at https://urldefense.proofpoint.com/v2/url?u=https-3A_integrator-2Dns.optimainxdr.com_ticket&d=DwIFaQ&c=Y0zCdXTMOJcLV4Fef-GHbw&r=j_1dSfxgDo0sGOe5WE0gQ-rlzkplMILsxagZEigTY-8&m=GkZ-Ixe7noTH9exj0RbLXCQCpR9KPofbdOhtzNp9kH4&s=Z7UeT0JAFrSEWQrCeTrWgCgvwHVlyiNKXAYhzG3LgSE&e=

11/15/2019 8:39:27 AM: Smart Score Saved

Details: Risk Percentile saved. Score value: 20

Attachment 6

NORMAL NOTICE

Ticket : 1911120962 Date: 11/12/2019 Time: 13:29 Oper: MMOELLER Chan:000

State: KY Cnty: BOYD City: ASHLAND
 Subdivision:

Address : 1728
 Street : HILTON AVE
 Cross 1 : ASHLAND AVE
 Location: LOCATE THE FRONT OF THE PROPERTY - FROM HILTON AVE UP THE HILL TO THE TOP OF THE BANK
 :
 Boundary: n 38.473087 s 38.471117 w -82.643360 e -82.640292

Work type : CUT DOWN BANK FOR ACCESS DRIVE / DEMOLITION
 Done for : CITY OF ASHLAND
 Start date: 11/14/2019 Time: 13:45 Hours notice: 48/48 Priority: NORM
 Ug/Oh/Both: U Blasting: NO Emergency: N
 Duration : N/A Depth: 6 FEET

Company : FER-CO ENTERPRISES INC Type: CONT
 Co addr : 7731 MCCOMIS DRIVE
 City : CATLETTSBURG State: KY Zip: 41129
 Caller : JEFF FERGUSON Phone: (606)922-2322
 Contact : JEFF FERGUSON CELL Phone:
 Mobile : (606)922-2322
 Email : HHMBC10@GMAIL.COM

Submitted date: 11/12/2019 Time: 13:29
 Members: 0023 0165 0173 0367

Member Name	Facility Types
CITY OF ASHLAND	WATER, SEWER
COLUMBIA GAS	PIPELINE
KENTUCKY POWER - AEP	ELECTRIC
TIME WARNER CABLE	COMMUNICATIONS

Jeffery Fergusson
Fer-Co Enterprises, Inc.
7731 McComis Dr.
Catlettsburg, KENTUCKY 41129