

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ANTONIO LOZANO	)	
	)	
_____	)	CASE NO.
	)	2021-00253
ALLEGED VIOLATION OF UNDERGROUND	)	
FACILITY DAMAGE PREVENTION ACT	)	

OPENING ORDER

Antonio Lozano (Mr. Lozano) 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,

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<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 Mr. Lozano 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 Mr. Lozano 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. Lozano shall submit to the Commission, via email sent to [PSCED@ky.gov](mailto: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.

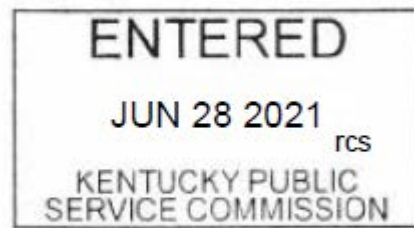
2. **Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.**

3. The Staff Incident Report 32574 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. Lozano 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

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2021-00253 DATED JUN 28 2021

SIX PAGES TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

<b>KY PSC Investigator(s)</b> Eric V. Tout <b>Incident Date</b> 4/21/2020 11:15:00 AM	<b>Incident ID</b> 32574 <b>Report Submitted</b> 5/4/2020 2:30:40 PM
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## OPERATOR INFORMATION

<b>Operator</b> Columbia Gas of Kentucky, Inc. <b>Phone</b> (859) 533-4022 <b>Incident Location</b> 4173 Willow Ln Lexington, KY 40516 Fayette	<b>Reported By</b> Ryan Twait <b>Email</b> rmtwait@nisource.com <b>Locate Ticket Number</b>
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## EXCAVATOR INFORMATION

<b>Name of Excavator</b> Lozano, Antonio <b>Phone</b> 859- 433-8577 <b>Excavator Address</b> 4173 Willow Ln Lexington, KY 40516	<b>Organization ID</b> <b>Email</b> <b>Locate Ticket Number</b>
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## INCIDENT

The Operator reports that the Excavator/Homeowner damaged a one-inch gas service with a backhoe and failed to call the KY Contact Center (811).

The Damage Report is include as Attachment 1.

## Excavation Summary

<b>Excavation Within 18"</b> (Approximate Location)	<b>Type Of Equipment Used</b>	<b>Cost of Damage</b> (Per Operator)	<b>Amount Billed</b> (Excavator)
No call to 811	Mechanized / Not specified	\$730.00	\$730.00

## Locate Ticket (LT) Summary

<b>Ticket # For</b>	<b>Valid</b>	<b>Initial Date</b>	<b>Expiration Date</b> (21 calendar days from Initial date)	<b>Incident Date</b>	<b># of Days Expired</b>	<b>Within Scope of Excavation</b>
2004280514 Antonio Moralez	No	04/28/20	N/A Obtained 5 days after incident date	04/21/20	N/A	Yes

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

## INVESTIGATION

On 01/06/21 the Excavator/Homeowner, Antonio Lozano, stated that on the incident date he held no valid LT for the incident location. Mr. Lozano was receptive to attending the Damage Prevention Course and paying the reduce penalty of \$100.00.

On 01/06/21 Carly Dunsmore of 811 conducted a search of the LTs obtained on/for the above noted incident date/location and provided a LT obtain by Antonio Moralez five days after the incident date. (See Attachment 2 & LT Summary).

## 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)

<b>Excavator</b>	<b>Last Offence Incident #</b>	<b>Last Offence Incident Date</b>	<b>Last Offence Resolved Date</b>
1 <sup>st</sup>	N/A	N/A	N/A

# Attachment 1

# Gas Excavation Damage Report

## Columbia Gas of Kentucky, Inc.

Submitted 5/4/2020 Incident ID 32574

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32574\)](#)

### Reported By:

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

### Gas Line Incident Occured:

Date	4/21/2020
Time	11:15 AM

### Details:

Reported Date	4/27/2020 4:52 PM
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### Incident Location Address:

Location	
Address	4173 Willow Ln
City	Lexington
State	KY
County	Fayette
Zip	40516
Confirm Code	Y

Number of Customers out	1
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Was gas or hazardous liquids contained in the underground facility?	<input 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.

Excavator	Home Owner
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### Excavator Address:

First Name	Antonio
Last Name	Lozano
Phone	859-433-8577
Email	
Address	4173 Willow Ln
City	Lexington



**State** KY  
**Zip** 40516  
**Confirm Code** Y  
**Excavation Damage** No notification made to the One Call Center

**Description of Incident** Mr. Lozano dug into a plastic one inch natural gas service line with mechanized equipment.

Summary Information

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5/4/2020

**Full details such as the cause** Mr. Lozano was excavating an area without a locate ticket. While excavating with a backhoe, Mr. Lozano struck and damaged a plastic one inch natural gas service line.  
**Extent of the damage** A plastic one inch natural gas service line was severed, and the service line was abandoned at the main.  
**Cost of the damage** \$730.00  
**Steps taken to prevent re-occurrence** CKY's Damage Prevention Specialist setup and conducted a safety tailgate with Mr. Lozano following the damage to educate him on the 811 dig law. The Damage Prevention Specialist also provided excavator pocket manuals and pocket color code reference cards to Mr. Lozano.  
**Amount billed to excavator** \$730.00

# Attachment 2

NORMAL NOTICE

Ticket : 2004280514 Date: 04/28/2020 Time: 09:24 Oper: JHENDERSON Chan:000

State: KY Cnty: FAYETTE City: LEXINGTON  
Subdivision:

Address : 4173  
Street : WILLOW LN  
Cross 1 : HALEY RD  
Location: LOCATE THE ENTIRE PROPERTY  
:  
Boundary: n 38.058965 s 38.056198 w -84.324653 e -84.315070

Work type : DRAIN LINE INSTALL  
Done for : ANTONIO MORALEZ  
Start date: 04/30/2020 Time: 09:45 Hours notice: 48/48 Priority: NORM  
Ug/Oh/Both: U Blasting: NO Emergency: N  
Duration : N/A Depth: 3 FEET

Company : ANTONIO MORALEZ Type: HOME  
Co addr : 4173 WILLOW LN  
City : LEXINGTON State: KY Zip: 40516  
Caller : ANTONIO MORALEZ Phone: (859)433-8577  
Contact : ANTONIO MORALEZ - CELL Phone:  
Mobile : (859)433-8577  
Email : MCROOFING13@GMAIL.COM

Submitted date: 04/28/2020 Time: 09:24  
Members: 0237 0326 0370 2621

\*Antonio Lozano  
4173 Willow Ln  
Lexington, KENTUCKY 40516