

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|---------------------------------------|---|------------|
| FREDRICK GILLIAM DBA ABOVE ALL SEPTIC |) | |
| |) | |
| _____ |) | CASE NO. |
| |) | 2021-00272 |
| ALLEGED VIOLATION OF UNDERGROUND |) | |
| FACILITY DAMAGE PREVENTION ACT |) | |

ORDER

This matter was originally established by an Order of the Commission, dated June 28, 2021. Upon notification by the postal service of the death of Fredrick Gilliam, the Commission, on its own motion, finds good cause that above-styled case should be dismissed without prejudice. Evidence of the death of the party is attached to this Order as an Appendix.

IT IS HEREBY ORDERED THAT the Commission's investigation of Damage Incident 32693 is hereby dismissed without prejudice and removed from the Commission's docket.

By the Commission

ENTERED
NOV 12 2021 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2021-00272

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00272 DATED NOV 12 2021

ELEVEN PAGES TO FOLLOW



Andy Beshear
Governor

Rebecca W. Goodman
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Michael J. Schmitt
Chairman

Kent A. Chandler
Vice Chairman

Talina R. Mathews
Commissioner

May 18, 2021

Fredrick Gilliam
Above All Septic
7899 YMCA Rd
Cincinnati, OH 45244

Re: Violation of Kentucky Underground Facility Damage Prevention Act
Incident Number: 3 2 6 9 3

60 Days Past Due

Dear: Mr. Gilliam:

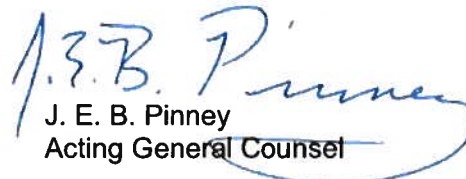
This is a reminder that your account is now past due in the amount of \$1,250. Attached is the demand letter and investigation report for the above Incident, which we show to be unpaid.

If we do not hear from you or receive payment within 10 days from the date of this letter, Incident Number 32693 will be referred to the Commission for an Administrative Hearing to be held at the Commission's offices.

Once a referral to the Commission is made, any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky. Thank you for your prompt attention to this matter.

If you have any questions regarding this notice or if you find that this penalty has already been paid, please contact **John E. Gowins**, Division of Inspections at 502-229-3058 or 502-782-2656.

Sincerely,


J. E. B. Pinney
Acting General Counsel

Attachment



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Michael J. Schmitt
Chairman

Kent A. Chandler
Vice Chairman

Talina R. Mathews
Commissioner

February 22, 2021

Fredrick Gilliam
Above All Septic
7899 YMCA Rd
Cincinnati, OH 45244

Re: Violation of Kentucky Underground Facility Damage Prevention
Act Incident Number: 32693

DEMAND FOR PENALTY ASSESSMENT

Dear Mr. Gilliam:

The Kentucky Public Service Commission (Commission) received a report on June 15, 2020, regarding damage to a natural gas or hazardous liquid facility owned and/or operated by the Duke Energy Kentucky, Inc. Under the Kentucky Underground Facility Damage Prevention Act (Act), KRS 367.4901 through KRS 367.4917, the Commission has jurisdiction to investigate and assess civil penalties for any violation of the Act that results in excavation damage to underground facilities used to transport gas or hazardous liquid subject to federal pipeline safety laws, 49 U.S.C. secs. 60101 et seq. The Commission regulates the safety of jurisdictional natural gas pipelines in the Commonwealth pursuant to KRS 278.495 and 49 CFR Parts 190, 191, 192 and 195.

Following receipt of the damage notification, Commission Staff (Staff) performed an investigation of the incident and prepared the attached incident report. Based on its investigation of the incident, Staff has determined that Above All Septic committed the following violation(s) 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.

CIVIL PENALTY

Based on its investigation of this matter, Staff has determined that Above All Septic **should be assessed a civil penalty in the total amount of \$1,250 for failing to comply with KRS 367.4911, first offense.**

Above All Septic should mail or deliver a cashier's check or money order made payable to the "Kentucky State Treasurer", within 30 days of the date of this letter, to:

February 22, 2021
Page 2 of 2

**Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602**

Please include the Incident Number 32693 on the cashier's check or money order submitted for payment.

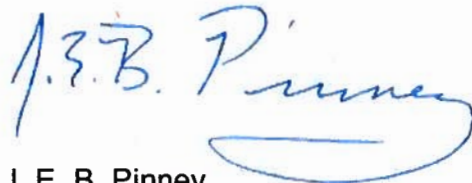
KRS 367.4917 provides that a person who commits a violation of the Act shall be subject to a civil penalty not to exceed \$250 for the first violation, \$1,000 for the second violation within one year, and \$3,000 for the third and any subsequent violation. If the violation results in damage to an underground pipeline used to transport gas or hazardous liquid, the violator is subject to an additional civil penalty not to exceed \$1,000 per violation.

Payment of the proposed civil penalty will satisfy and resolve any and all claims against Above All Septic for any violation of the Act, arising out of the May 19, 2020 incident. Above All Septic's payment of the proposed civil penalty will not be considered an admission by Above All Septic that it willfully violated any provision of the Act.

If Above All Septic does not pay the proposed civil penalty within 30 days of the date of this letter, the Commission will institute an administrative proceeding against Above All Septic and hold a formal hearing during which Above All Septic will have an opportunity to present evidence.

If you have any questions regarding this demand for penalty assessment, please contact John E. Gowins, Division of Inspections at 502-782-2656.

Sincerely,



J. E. B. Pinney
Acting General Counsel

Attachment

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

| | |
|--|---|
| KY PSC Investigator(s) John E. Gowins | Incident ID 32693 |
| Incident Date 5/19/2020 1:41:00 PM | Report Submitted 6/15/2020 11:05:46 AM |

OPERATOR INFORMATION

| | |
|--|---|
| Operator Duke Energy Kentucky, Inc. | Reported By Laura Mate |
| Phone (513) 287-2594 | Email Laura.Mate@duke-energy.com |
| Incident Location 2995 Lakeview Dr, Independence 2995 Lakeview Dr Independence, KY 41051 Kenton | Locate Ticket Number No ticket |

EXCAVATOR INFORMATION

| | |
|--|-----------------------------|
| Name of Excavator Gilliam, Fredrick | Organization ID |
| Phone 513-259-7341 | Email |
| Excavator Address Above All Septic 7899 Ymca Rd Cincinnati, OH 45244 | Locate Ticket Number |

INCIDENT

| Locate Ticket Summary | | | | | | |
|-----------------------|-------|--------------|--|---------------|-------------------|----------------------------|
| Ticket # | Valid | Initial Date | Expiration Date (21 calendar days from Initial date) | Incident Date | # of Days Expired | Within Scope of Excavation |
| None | N/A | N/A | N/A | 5/19/20 | N/A | N/A |

| Excavation Summary | | | |
|----------------------------------|------------------------|----------------------------------|------------------------------|
| Excavation Within Tolerance Zone | Type Of Equipment Used | Cost of Damage (Per Operator) | Amount Billed (Excavator) |
| N/A | Mechanized | \$0.00 | \$0.00 |

The operator reports that Above All Septic was performing a septic repair service using a backhoe at the above stated location for the Wilson residence. During this time, Above All Septic came into contact with and thus damaged an underground natural gas facility owned by Duke Energy

Company. Above All Septic failed to request or obtain a locate ticket prior to commencing excavation via 811 One Call Center. Homeowner is Luke Wilson 859-512-8743.

INVESTIGATION

Verified the above phone number online.

This would be the company's first violation.

January 28, 2021

- Called 513.259.7341, left a v.m.

February 10, 2021

- Called 513.259.7341, left a second v.m.

February 17, 2021

- Called 513.259.7341, left a v.m. indicating a demand letter was coming.

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.

Gas Excavation Damage Report

Duke Energy Kentucky, Inc.

Submitted 6/15/2020 Incident ID: 32693

[Set back to Edit](#) | [Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32693\)](#)

Reported By:

Name: Laura Mate
Phone: (513) 287-2594
Email: Laura.Mate@duke-energy.com

Gas Line Incident Occured:

Date: 5/19/2020
Time: 1:41 PM

Details:

Reported Date: 6/15/2020 10:59 AM

Incident Location Address:

Location: 2995 Lakeview Dr, Independence
Address: 2995 Lakeview Dr
City: Independence
State: KY
County: Kenton
Zip: 41051
Confirm Code: Y

Number of Customers out: 1

Was gas or hazardous liquids contained in the underground facility?

Was gas or hazardous liquids released into the atmosphere? 3/2020

Locate Request Ticket No.: No ticket

Excavator: Contractor

Excavator Address:

First Name: Fredrick
Last Name: Gilliam
Organization ID:
Company: Above All Septic
Phone: 513-259-7341
Email:

Address: 7899 Ymca Rd
City: Cincinnati
State: OH
Zip: 45244
Confirm Code: Y
Excavation Damage: No notification made to the One Call Center

Description of Incident Unmarked gas service was damaged by a backhoe during excavations for a septic system repair.

Summary Information

6/15/2020

Full details such as the cause Above All Septic was performing a septic repair service at the above stated location for the Wilson residence. During this time, Above All Septic came into contact with and thus damaged an underground natural gas facility owned by Duke Energy Company. Above All Septic failed to request or obtain a locate ticket prior to commencing excavation via 811 One Call Center. Homeowner is Luke Wilson 859-512-8743.

Extent of the damage Gas service damaged.
Cost of the damage \$0.00
Steps taken to prevent re-occurrence
Amount billed to excavator \$0.00



Fredrick Harold Gilliam

July 14, 1938 - May 28, 2020

Mr. Fredrick Harold Gilliam, age 81, of Cincinnati, Ohio, passed away Thursday, May 28, 2020, at Mercy Health Anderson Hospital in Cincinnati, Ohio.

He was born July 14, 1938, in Carter County, Kentucky, a son of the late Clayton Gilliam and Stella Lawhorn.

Fred was a retired truck driver with Plainfield Concrete, and he enjoyed playing pool, watching westerns, hunting, fishing and especially spending time with his grandchildren.

In addition to his parents, he was preceded in death by two children, Teresa Gilliam and Victoria Gilliam; one brother, Willie Bryant; and two sisters, Myrtle McDaniel and Alma Tabor.

Fred is survived by his wife, Dorothy Parker Gilliam; two sons, Terry Gilliam and Fredrick Gilliam both of Cincinnati, Ohio; one daughter, Georigana Gilliam of Cincinnati, Ohio; nine grandchildren; six great grandchildren; and three sisters, Mary Walters of Mansfield, Ohio, Susetta Bland of Plymouth, Ohio and Rachel Gilliam (Ernest) of Olive Hill, Kentucky. He also leaves many other family members and friends who will sadly mourn his passing.

Funeral services will be held at 2 p.m. Monday, June 1, 2020, at Globe Funeral Chapel in Olive Hill, Kentucky with Brother Steve Madden and Brother Bobby Day officiating. Burial will follow in the JR OUAM Cemetery in Olive Hill, Kentucky.

Friends may visit from 1 p.m. to 2 p.m. Monday, June 1, 2020, at Globe Funeral Chapel, 17277 West US Highway 60, Olive Hill, Kentucky 41164.

Terry Gilliam, Ernie Gilliam Jr., Fredrick Gilliam, Shane Tackett, Evan Sheafe and Anthony Fritts will serve as pallbearers.

Tribute Wall

R

Rita Johnson

I am sorry to hear this, Myrtle will be so to see him . Myrtle talked about him a lot she said that he was a hard working man. To all the family I am so sorry to hear this my Love and Prayers are with you in this time of sorrow, May God Bless You All and give you comfort at sad time Rita Johnson



"Butterfly"

was given in memory of Fredrick Harold Gilliam

♥ Leave a symbol

Show your support by giving a symbol of remembrance



Susetta Bland



"Material_candle_blue_thumbnail"

was lit in memory of Fredrick Harold Gilliam

♥ Light a candle

Show your support by giving a symbol of remembrance

J

Joe Carpenter

Good friend of my family for 40 years



"Material_candle_navy_thumbnail"

was lit in memory of Fredrick Harold Gilliam

♥ Light a candle

Show your support by giving a symbol of remembrance

F

Faye Stevens



"Dove"

was given in memory of Fredrick Harold Gilliam

♥ Leave a symbol

Show your support by giving a symbol of remembrance

T

Tim & Kitty Barker



"Dove"

was given in memory of Fredrick Harold Gilliam

♥ Leave a symbol

Show your support by giving a symbol of remembrance

L

Louie Perry and Anita Cooper



"Material_candle_blue_thumbnail"
was lit in memory of Fredrick Harold Gilliam

♥ Light a candle

Show your support by giving a symbol of remembrance

Above All Septic
4524 Glenridge Dr
Cincinnati, OHIO 45245