

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JUSTIN BROWN	)	
	)	
_____	)	CASE NO.
	)	2021-00277
ALLEGED VIOLATION OF UNDERGROUND	)	
FACILITY DAMAGE PREVENTION ACT	)	

OPENING ORDER

Justin Brown (Mr. Brown) 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. Brown 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. Brown 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. Brown 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.

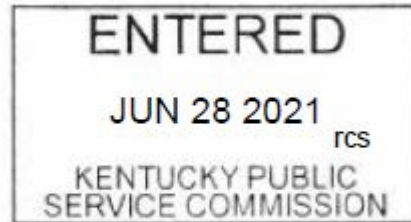
2. **Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.**

3. The Staff Incident Report 32711 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. Brown 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. 2021-00277 DATED JUN 28 2021

FOUR PAGES TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

<b>KY PSC Investigator(s)</b> John E. Gowins	<b>Incident ID</b> 32711
<b>Incident Date</b> 5/30/2020 11:28:00 AM	<b>Report Submitted</b> 6/17/2020 11:31:27 AM

## OPERATOR INFORMATION

<b>Operator</b> Louisville Gas and Electric Company	<b>Reported By</b> Mike Jones
<b>Phone</b> (502) 364-8281	<b>Email</b> Mike.Jones@lge-KU.com
<b>Incident Location</b> 103 Willow Ct Bardstown, KY 40004	<b>Locate Ticket Number</b> NA
Nelson	

## EXCAVATOR INFORMATION

<b>Name of Excavator</b> Brown, Justin	<b>Organization ID</b>
<b>Phone</b> 502-510-3222	<b>Email</b>
<b>Excavator Address</b> 799 Stonehouse Rd Bardstown, KY 40004	<b>Locate Ticket Number</b>

## 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	5/30/20	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	\$714.00	\$0.00

The operator reports that a friend of homeowner damaged unmarked 1/2" plastic company service digging out driveway with mini-excavator to widen. There was no call to 811. There was a release of gas.

## INVESTIGATION

This would be the first violation for Mr. Brown.

The above phone number was verified online.

February 4, 2021

- Called 502.510.3222, left a v.m.

February 9, 2021

- Received a call from Mr. Brown, who agreed to the reduced penalty and remedial measure.

### **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

## Louisville Gas and Electric Company

Submitted 6/17/2020 Incident ID 32711

[Set back to Edit](#)
[Staff Edit](#)
[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32711\)](#)

### Reported By:

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

### Gas Line Incident Occured:

Date	5/30/2020
Time	11:28 AM

### Details:

Reported Date	6/17/2020 11:28 AM
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### Incident Location Address:

Location	
Address	103 Willow Ct
City	Bardstown
State	KY
County	Nelson
Zip	40004
Confirm Code	Y
Number of Customers out	1
Was gas or hazardous liquids contained in the underground facility?	<input checked="" type="checkbox"/>
Was gas or hazardous liquids released into the atmosphere?	<input checked="" type="checkbox"/> *
	3/2020
Locate Request Ticket No.	NA
Excavator	Contractor

### Excavator Address:

First Name	Justin
Last Name	Brown
Organization ID	
Company	
Phone	502-510-3222
Email	



<b>Address</b>	799 Stonehouse Rd
<b>City</b>	Bardstown
<b>State</b>	KY
<b>Zip</b>	40004
<b>Confirm Code</b>	Y
<b>Excavation Damage</b>	No notification made to the One Call Center

**Description of Incident** ?Excavator/friend of homeowner damaged service without locates.

### Summary Information

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6/17/2020

<b>Full details such as the cause</b>	Friend of homeowner damaged unmarked 1/2" plastic company service digging out driveway with mini-excavator to widen. There was a release of gas.
<b>Extent of the damage</b>	1/2" plastic service
<b>Cost of the damage</b>	\$714.00
<b>Steps taken to prevent re-occurrence</b>	I gave the homeowner, Charlene Rogers, a Safe Digging Brochure and advised her and anyone she hires to excavate to always call 811 before digging. I called and left a voicemail for Justin Brown to speak with him about the Dig Law.
<b>Amount billed to excavator</b>	\$0.00

Justin Brown  
799 Stonehouse Rd  
Bardstown, KENTUCKY 40004