

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CHAU HOME IMPROVEMENT)	
)	
_____)	CASE NO.
)	2022-00260
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

INITIATING ORDER FOR ALLEGED 811 VIOLATION OF THE KENTUCKY
UNDERGROUND FACILITY DAMAGE PREVENTION ACT

Chau Home Improvement 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 A hearing in this case shall take place on September 30, 2022.

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 Appendix A. In its Incident Report, Staff cites Chau Home Improvement 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 Chau Home Improvement violated the Underground Facility Damage Prevention Act. The Commission further finds that a formal investigation into the excavation damage incident shall be conducted.

IT IS THEREFORE ORDERED that:

1. Chau Home Improvement 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. Chau Home Improvement shall appear on September 30, 2022, at 9 a.m. Eastern Daylight Time, in the Richard Raff Hearing Room of the Commission's offices at

211 Sower Boulevard in Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violation of the Underground Facility Damage Prevention Act.

3. The September 30, 2022 hearing shall be conducted via video conferencing.

4. Chau Home Improvement shall attend the hearing by using the following link: <https://global.gotomeeting.com/join/308551245>; information and instructions are attached to this Order as Appendix B.

5. Chau Home Improvement shall notify the Commission at least ten days prior to the hearing if Chau Home Improvement is unable to appear by video conferencing and will therefore appear in person.

6. 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.

7. An individual may submit a response to the allegations contained in the Staff Incident Report without the representation of an attorney.

8. The Staff Incident Report 53697, attached to this Order as Appendix A, is made a part of the record in this case.

9. The September 30, 2022 hearing shall be recorded by video only.

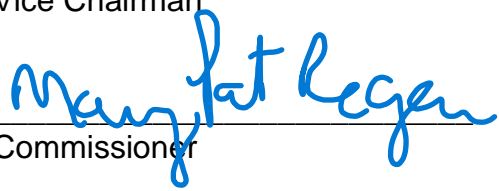
10. Please note parties who fail to appear after service will be subject to entry of a default judgment against them.

PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman



Commissioner



ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00260 DATED AUG 22 2022

TWENTY PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Eric Tout **Incident ID** 53697 **Investigation** 8656
Incident Date 5/27/2021 6:30:00 PM **Report Submitted** 6/21/2021

Operator Information

Operator Columbia Gas of Kentucky, Inc. **Reported By** James Rice
Phone (859) 537-2123 **Email** JamesRice@NiSource.com

Incident Location 342 Nelson Ave. **Locate Ticket Number** n/a
 Lexington KY 40508

County Fayette

Excavator Information

Excavator Allan Chau **Organization ID**
 Chau Home Improvement
Phone 859-797-7220 **Email**
Address 306 Anza Ln **Locate Ticket Number** n/a
 Nicholasville KY 40356

Damage Report Summary

Excavation Within 18" (Tolerance Zone)	Gas Or Hazardous Liquids		Type Of Equipment Used	Cost of Damage	Amount Billed
	Contained	Released			
No call to 811		Yes	Mechanized/Not specified	\$800.00	\$800.00

The Operator reports the Excavator damaged a one-inch gas service with mechanized equipment, installing electric and failed to contact the KY Contact Center (811).

The DR is included as Attachment 1.

INVESTIGATION

On 04/19/22, 811, April Butler, provided a Locate Ticket (LT) 2105281770, for 342 Nelson Ave. which is outlined below:

LT Summary

Ticket #	Valid	Initial Date	Expiration Date (21 calendar days from Initial date)	Incident Date	# of Days Expired	Within Scope of Excavation
2105281770	No	05/28/21	06/18/21	05/27/21	0	Yes

A review of LT...1770 revealed it was obtained by the Excavator on 05/28/21 the day after the damage occurred, 05/27/21, making this ticket invalid.

Ms. Butler's email and the LT are included as Attachment 2.

Note: Incident 53698, 344 Nelson Ave., was assigned out of sequence making this incident, 53697 the first offence.

On 04/19/22 in reference to incident, 53698 the Excavator, Chau Home Improvement's Alan Chau, stated that he always calls 811 prior to excavating, but could not provide a LT number due his record keeping not extending that far back. Staff informed Mr. Chau of 811's search results and Mr. Chau stated again that he held a valid LT at the time of the damage. Mr. Chau stated that he is not at fault, he has an attorney and if

PIPELINE DAMAGE INVESTIGATION REPORT

the penalty was \$1,000,000.00 he would not pay because he has done nothing wrong. Staff not realizing Incident 53698 was assigned out of sequence offered Mr. Chau the reduced penalty of \$250.00 and attendance to the Damage Prevention Course, first offence when in fact this Incident, 53697, is Chau Home Improvement's first offence.

On 04/20/22, via telephone, contact was made with Ms. Butler of 811 and she advised the results obtained for the request made on 04/19/22 (See Attachment 2) for address 344 Nelson Ave. would be the same for this incident 53697, 342 Nelson Ave.

On 04/22/22 Staff conducted a follow up telephone call informing Mr. Chau that this incident, 53697, is the first offence and Incident 53698 is Chau Home Improvement's second offence resulted in Mr. Chau stating he always calls 811 prior to excavating and he could not provide a LT. Mr. Chau again stated that he did nothing wrong and would go to a hearing.

On 04/27/22, the Operator, Columbia's James Rice, provided the following documents:

- PSC Gas Excavation Damage Report: Which are outlined in the DR Summary and Attachment 1.
- Photograph – 1: Depicting the damage.
- Claim Invoice and Letter: Indicating the Excavator was billed \$1,059.21 for the damage repair with no confirmation it was paid.

Columbia's documents are included as Attachment 3.

Due to Mr. Chau's response a Demand will be sent imposing the reduced penalty of \$250.00, first offence, and requiring attendance to the Damage Prevention Course.

VIOLATIONS¹

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 Within 365 Days

(Including this incident)

Excavator	Last Offence Incident #	Last Offence Incident Date	Revert to 1st Offence Date (Last Offence Date +366 Days)
1 st	See above N/A	05/27/21	05/28/22

¹ A revision of the Underground Facility Damage Prevention Act took effect on January 1, 2022. All incidents of damage dated prior to January 1, 2022 will be reviewed under the former version of the Act

Attachment 1

Gas Excavation Damage Report

Columbia Gas of Kentucky, Inc.

Submitted 6/21/2021 Incident ID: 53697

[Set back to Edit](#)

[Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=53697\)](#)

Reported By:

Name: James Rice
Phone: (859) 537-2123
Email: JamesRice@NiSource.com

Gas Line Incident Occured:

Date: 5/27/2021
Time: 6:30 PM

Details:

Reported Date: 6/16/2021 8:45 AM

Incident Location Address:

Location:
Address: 342 Nelson Ave
City: Lexington
State: KY
County: Fayette
Zip: 40508

Confirm Code:

Number of Customers out: 0

Was gas or hazardous liquids contained in the underground facility?

* 3/2020

Was gas or hazardous liquids released into the atmosphere?

Locate Request Ticket No.: n/a

Excavator: Contractor

Excavator Address:

First Name: Allan
Last Name: Chau
Organization ID:
Company: Chau Home Improvement
Phone: 859-797-7220
Email:
Address: 306 Anza Ln
City: Nicholasville
State: KY
Zip: 40356
Confirm Code: Y

Excavation Damage: No notification made to the One Call Center

Description of Incident Chau Home Improvement struck a plastic one inch natural gas service line with mechanized equipment.

Summary Information

6/21/2021

Full details such as the cause

Chau Home Improvement was excavating without a locate ticket. While using mechanized equipment (excavator) to install electric, Chau Home Improvement struck and damaged a plastic one inch natural gas service line.

Extent of the damage

A plastic one inch natural gas service line was punctured, and the service line was capped at the curb valve.

Cost of the damage

\$800.00

Steps taken to prevent re-occurrence

CKY employees advised Chau Home Improvement to always call 811 prior to any excavating activities.

**Amount billed to
excavator**

\$800.00

Attachment 2

Tout, Eric V (PSC)

From: Ticket Research <ticketresearch2@usa811.org>
Sent: Tuesday, April 19, 2022 8:09 AM
To: Tout, Eric V (PSC)
Cc: PSCrequest@kentucky811.org
Subject: Re: 53698
Attachments: 2105281770.pdf

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

Hello,

We searched for tickets from April 1st through May 31st, 2021 but were unable to find any tickets submitted on 344 Nelson Ave for the excavator Chau Home Improvement but we did find for 342 Nelson Ave next door, and the request was for the area left of 342 which could include a shared easement between the two addresses. I have attached the ticket for 342 Nelson. If you have any more information, we would be happy to assist you further.

Thank you,
April Butler, *Member Services*

Office [833-538-0923](tel:833-538-0923) | Fax [317-386-7820](tel:317-386-7820)

Know what's below. 811 before you dig.

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[Kentucky811](#) | [Facebook](#) | [Twitter](#) | [YouTube](#)

Thank you,
April Butler & Carly Dunsmore, *Member Services*

Office [833-538-0923](tel:833-538-0923) | Fax [317-386-7820](tel:317-386-7820)

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On Tue, Apr 19, 2022 at 7:59 AM Tout, Eric V (PSC) <ericv.tout@ky.gov> wrote:

Please provide locate ticket(s) for:

Incident Date: 5/28/2021 (Provided the date range for the search)

Operator: Columbia

Incident Location: 344 Nelson Ave., Lexington

County: Fayette

Excavator: Chau or Chow Home Improvement

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

NORMAL NOTICE

Ticket : 2105281770 Date: 05/28/2021 Time: 19:52 Oper: KENTUCKY811 Chan:000

State: KY Cnty: FAYETTE City: LEXINGTON
Subdivision:

Address : 342
Street : NELSON AVE
Cross 1 : E 3RD ST
Location: WHEN FACING PROPERTY FROM THE DIG STREET LOCATE THE LEFT SIDE OF
PROPERTY
:
Boundary: n 38.044642 s 38.042279 w -84.483197 e -84.479971

Work type : INSTALL ELECTRIC/WATER/SEWER
Done for : CHAU HOME IMPROVMENT
Start date: 06/03/2021 Time: 07:00 Hours notice: 131/48 Priority: NORM
Ug/Oh/Both: U Blasting: NO Emergency: N
Duration : N/A Depth: 3 FT

Company : CHAU HOME IMPROVMENT Type: CONT
Co addr : 306 ANZA LANE
City : NICHOLASVILLE State: KY Zip: 40356
Caller : ALAN CHAU Phone: (859)797-7220
Contact : ALAN CHAU - CELL Phone:
Mobile : (859)797-7220
Email : DANNYCHAU70@YAHOO.COM

Submitted date: 05/28/2021 Time: 19:52
Members: 0139 0200 0237 0326 0370 0700 2621 WINKY

* Responses are current as of 04/19/2022 08:03 AM

<u>Service Area</u>	<u>Utility Type(s)</u>	<u>Customer Service Contact</u>	<u>Positive Response</u>
AT&T DISTRIBUTION 0139	COMMUNICATIONS	AT&T DISTRIBUTION CUSTOMER SERVICE (888) 757-6500	
LEXINGTON URBAN COUNTY GOVERNMENT 0200	SEWER		
INSIGHT COMMUNICATIONS 0237	CABLE TV	INSIGHT COMMUNICATIONS CUSTOMER SERVICE (502) 357-4400	Clear - No conflict
KENTUCKY UTILITIES (ONLY ADD IF IN THIS COUNTY) 0326	ELECTRIC	KENTUCKY UTILITIES CUSTOMER SERVICE (800) 981-0600	Clear - No conflict
KENTUCKY AMERICAN WATER COMPANY 0370	WATER		Marked - Underground facilities are in conflict.
METRONET FIBER NETWORK 0700	COMMUNICATIONS		Clear - No conflict
COLUMBIA GAS 2621	PIPELINE	COLUMBIA GAS CUSTOMER SERVICE (800) 432-9345	
WINDSTREAM KENTUCKY INC WINKY	TELEPHONE		

Attachment 3

Tout, Eric V (PSC)

From: Rice \ James \ D <jamesrice@nisource.com>
Sent: Wednesday, April 27, 2022 10:10 AM
To: Tout, Eric V (PSC)
Subject: RE: 53697, 5/27/2021, 342 Nelson Ave., Lexington, Chau Home Improvement
Attachments: 342 Nelson Av 5_27 - Lex - No notification made to 811.pdf; 342 Nelson 11.JPG; KY21-1077 Claim invoice.pdf; KY21-1077 Claim letter.pdf

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

Good morning Eric,

See attached.

-james

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Wednesday, April 27, 2022 6:59 AM
To: Rice \ James \ D <jamesrice@nisource.com>
Subject: RE: 53697, 5/27/2021, 342 Nelson Ave., Lexington, Chau Home Improvement

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.

Doing follow up, see email below.

Thanks,
Eric

From: Tout, Eric V (PSC)
Sent: Wednesday, April 20, 2022 11:39 AM
To: JamesRice@nisource.com
Subject: 53697, 5/27/2021, 342 Nelson Ave., Lexington, Chau Home Improvement

Hello James,

Please send reports, photos, invoices and payment info (copy of check) if paid.

*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*



PSC Gas Excavation Damage Report

Excavation Damage Occurred

Date: 05/27/2021

Time: 6:30 PM

JO #: 21-9189589-00

Incident Location

Address: 342 Nelson Av

City: Lexington

County: Fayette

Zip: 40505

Cust. Lost: 1

Was gas released into the atmosphere? Y

Locate Request Ticket Number: N/A

Excavator Information

Excavator Type: Contractor

First Name: Allan

Last Name: Chau

Company: Chau Home Improvement

Phone: 859-797-7220

Email: Unknown

Address: 306 Anza Ln

City: Nicholasville

State: KY

Zip: 40356



Incident Details

KY PSC - Cause of Damage: No notification made to the One Call Center

Columbia DIMP Root Cause: Failed To Notify One Call/Failure to call one call center

Description of Incident: Chau Home Improvement struck a plastic one inch natural gas service line with mechanized equipment.

Full details such as the cause: Chau Home Improvement was excavating without a locate ticket. While using mechanized equipment (excavator) to install electric, Chau Home Improvement struck and damaged a plastic one inch natural gas service line.

Extent of the damage: A plastic one inch natural gas service line was punctured, and the service line was repaired.

Cost of the damage: \$800

Steps taken to prevent re-occurrence: CKY employees advised Chau Home Improvement to always call 811 prior to any excavating activities.

Amount billed to excavator: \$800





**Columbia Gas of Kentucky, Inc.
Damage Prevention Support**

3101 N Ridge Road E
Lorain, Ohio 44055

07/09/2021

216-339-7856

Chau Home Improvement
306 Anza
Nichlosville, Kentucky 40356

Re: Our Claim: KY21-1077

Gentlemen,

Enclosed is our damage claim invoice in the amount of \$1,059.21, which is the expense our company incurred as the result of your contact with our facilities, located in the vicinity of 342 Nelson Av, Lexington, Kentucky 40508. Our reports indicate that our facilities were damaged on 05/27/2021.

If you have insurance to cover this type of damage claim, please forward the enclosed damage claim invoice and envelope to your insurance carrier for payment. Then please advise our department of your insurance company's name and address so that we can follow the matter to a conclusion. In the event you are not insured, your check, draft or money order in the above amount is hereby requested. To insure proper credit to your account, please remit the top portion of the damage claim invoice, along with your payment, in the enclosed pre-addressed envelope.

If you wish to discuss this matter further, please contact the undersigned.

Sincerely,

Dawn Miller
Facility Damage Coordinator
drmillier@NiSource.com

Enclosure

Columbia Gas/NiSource

INVOICE

CLAIM NO.: KY21-1077

JOB ORDER NO.: 21-9160081-00

DATE: July 09, 2021

MRA ACCOUNT NUMBER: 21022461-000-001-3

PAYMENT DUE 28 DAYS FROM ABOVE DATE
PLEASE MAKE REMITTANCE PAYABLE TO:

Chau Home Improvement
306 Anza
Nichlosville, Kentucky 40356

Columbia Gas / NiSource
3101 N. Ridge Rd. E.
Lorain, Ohio 44055
ATTN: Damage Prevention Support

AMOUNT DUE

\$1,059.21

PLEASE CUT HERE AND RETURN TOP WITH PAYMENT

Itemization of the charges for the damages which occurred on 05/27/2021 in the vicinity of 342 Nelson Av, Lexington, Kentucky 40508.

ITEMS	AMOUNT
Labor	\$481.48
Materials	\$22.41
Equipment	\$551.32
Gas Loss	\$2.66
Contracted Fees	\$0.00
Taxes	\$1.34
TOTAL EXPENSE	\$1,059.21

Notes:

If you have any questions regarding this bill, please contact Dawn Miller,
Facility Damage Coordinator, at (440)240-6166.



Know what's below.
Call before you dig.

Columbia Gas/NiSource

INVOICE

CLAIM NO.: KY21-1077

JOB ORDER NO.: 21-9160081-00

DATE: July 09, 2021

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00260 DATED AUG 22 2022

TWO PAGES TO FOLLOW

Information and Instructions for Hearing

You are required to attend a formal hearing with the Kentucky Public Service Commission. Please note the hearing is scheduled in the **Eastern Time Zone**, and the hearing date and time are on the Order that accompanied these instructions.

You are **strongly encouraged** to download the GoToMeeting app now and be ready for your hearing. If you cannot appear via video using this app, at least ten days prior to your scheduled hearing you must call the Commission's offices at the number provided below. You will receive instructions on appearing in person in the Richard Raff Hearing Room of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky at the time and date of your scheduled hearing.

Please direct any questions to Ashley Rhodes, Commission Division of Inspections. AshleyB.Rhodes@ky.gov or 502-782-2578.

To download the GoToMeeting app go to:

<https://global.gotomeeting.com/install/258846301>

On the day of your hearing using your computer, tablet, or video enabled smartphone. **Access the proceeding at:**

<https://global.gotomeeting.com/join/308551245>

More information about using GoToMeeting can be found at:

GoToMeeting - Attendee Quick Start

<https://www.youtube.com/embed/8VaHHVP0FCU?autoplay=1&showinfo=0&controls=0&rel=0>

GoToMeeting - How to Join a Meeting

https://www.youtube.com/embed/Ojl1q_sPrP0?autoplay=1&showinfo=0&controls=0&rel=0

Technical Requirements for Using GoToMeeting

Operating System:

Windows 7 – Windows 10

Mac OS X 10.9 (Mavericks) – mac OS Big Sur (11)

Linux/Ubuntu (Web App only)

Google Chrome OS (Web App only)

iOS 11 – iOS 13

Android OS 5 (Lollipop) – Android 10

Web Browser: (Applies to Web App only)

Google Chrome v72 or newer

Microsoft Edge v77 or newer

Internet Connection:

Computer: 1 Mbps or better (broadband recommended)

Mobile device and Chromebook: 3G or better (WiFi recommended for VoIP)

Software:

GoToMeeting desktop app (JavaScript enabled)

GoToMeeting app from the Apple Store, Google Play Store, or Windows Store

Hardware:

2GB of RAM (minimum), 4GB or more of RAM (recommended)

Webcam device*

Microphone and speakers** (USB headset recommended)

Mobile Device:

iPhone 5 or newer

iPad 3rd gen or newer

Note: * You MUST have a camera on your device or connected to your device to appear at the hearing.

** Most devices have built-in speakers, but you will get better audio quality while connected via VoIP if you use a headset

*Chau Home Improvement c/o Allan Chau
306 Anza Lane
Nicholasville, KENTUCKY 40356