

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOSEPH MONCADA)	
)	
_____)	CASE NO.
)	2020-00081
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

Joseph Moncada (Mr. Moncada) 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 Mr. Moncada 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. Moncada 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:

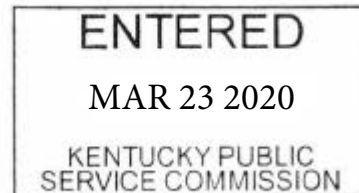
1. Mr. Moncada shall submit to the Commission, at PSCED@ky.gov, a written response to the allegations contained in the Staff Incident Report within 20 days of receipt of this Order.
2. Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney 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 32336 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. Moncada 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

Commissioner Talina Mathews did not participate in this case.



ATTEST:

A handwritten signature in blue ink, consisting of stylized initials and a surname.

Executive Director

Case No. 2020-00081

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2020-00081 DATED MAR 23 2020

FOUR PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Peter Goodmann	Incident ID 32336
Incident Date 12/10/2019 12:50:00 PM	Report Submitted 12/18/2019 8:13:40 AM

OPERATOR INFORMATION

Operator Louisville Gas and Electric Company	Reported By Mike Jones
Phone (502) 364-8281	Email Mike.Jones@lge-KU.com
Incident Location 2013 Longest Ave Louisville, KY 40204 Jefferson	Locate Ticket Number NA

EXCAVATOR INFORMATION

Name of Excavator Moncada, Joseph	Organization ID
Phone 502-350-7519	Email
Excavator Address Joseph Moncada 6604 Morocco Dr Louisville, KY 40214	Locate Ticket Number

INCIDENT

The operator reports that the excavator hit a 1/2" plastic gas service with post hole diggers. The excavator is installing a deck on the front of the house/business and did not have a locate request called in for the job.

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	12/10/2019	N/A	N/A

Excavation Summary			
Excavation Within Tolerance Zone	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
N/A	Non-mechanized (post-hole digger)	\$309.00	\$0.00

INVESTIGATION

The excavator appears to be a first-time violator per IRS. Contractor is not registered with the Secretary of State's Office.

Called and left a voicemail at 502-350-7519 with Mr. Joseph Moncada at 2:37p on 12/19/2019.

Mr. Moncada returned my call from 502-350-7519 on 12/19/2019 at 4:30 pm. Mr. Moncada did not dispute the report. He indicated he hit the gas line while using a post-hole digger. Mr. Moncada also indicated he hit the water line, which was copper and was undamaged. The homeowner had reportedly spoken with MSD and local P&Z, and was told to proceed without instruction to call 811. Mr. Moncada is the contractor for homeowner. Mr. Moncada agreed to a penalty of \$250, and to attend the February 3, 2020 remedial training class. Mr. Moncada's email is: joseph.moncada502@gmail.com.

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 12/18/2019 Incident ID: 32336

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32336\)](#)

Reported By:

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

Gas Line Incident Occured:

Date: 12/10/2019
Time: 12:50 PM

Details:

Reported Date: 12/18/2019 8:13 AM

Incident Location Address:

Location:
Address: 2013 Longest Ave
City: Louisville
State: KY
County: Jefferson
Zip: 40204
Confirm Code: Y
Number of Customers out: 1
Locate Request Ticket No.: NA
Excavator: Contractor

Excavator Address:

First Name: Joseph
Last Name: Moncada
Organization ID:
Company: Joseph Moncada
Phone: 502-350-7519
Email:
Address: 6604 Morocco Dr
City: Louisville
State: KY
Zip: 40214

Confirm Code: Y

Excavation Damage: No notification made to the One
Call Center

Description of Incident ?Excavator damaged service while digging without a locate request.

Summary Information

12/18/2019

Full details such as the cause	Contractor hit a 1/2" plastic gas service with post hole diggers. Contractor is installing a deck on the front of the house/business and did not have a locate request called in for the job.
Extent of the damage	1/2" plastic gas service
Cost of the damage	\$309.00
Steps taken to prevent re-occurrence	Explained the dig law and safe practices and excavation to the contractor on site. He said he will call on jobs, including this one, in the future.
Amount billed to excavator	\$0.00

*Joseph Moncada
6604 Morocco Dr.
Louisville, KENTUCKY 40214