

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TERRY WILKEY	)	
	)	
_____	)	CASE NO.
	)	2021-00085
ALLEGED VIOLATION OF UNDERGROUND	)	
FACILITY DAMAGE PREVENTION ACT	)	

OPENING ORDER

Terry Wilkey (Mr. Wilkey) 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. Wilkey 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. Wilkey 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. Wilkey 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 32439 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. Wilkey 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. 2021-00085 DATED MAR 01 2021

FOUR PAGES TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

<b>KY PSC Investigator(s)</b> John E. Gowins	<b>Incident ID</b> 32439
<b>Incident Date</b> 2/16/2020 11:50:00 AM	<b>Report Submitted</b> 2/18/2020 3:48:48 PM

## OPERATOR INFORMATION

<b>Operator</b> Benton Gas System City of Benton	<b>Reported By</b> Brittany Canup
<b>Phone</b> 2707031338	<b>Email</b> bcanup@bentongas.org
<b>Incident Location</b> 1628 US Highway 68 E Benton, KY 42025  Marshall	<b>Locate Ticket Number</b>

## EXCAVATOR INFORMATION

<b>Name of Excavator</b> Wilkey, Terry	<b>Organization ID</b>
<b>Phone</b> 270-210-8256	<b>Email</b>
<b>Excavator Address</b> 1628 US Highway 68 E Benton, KY 42025	<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	2/16/20	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	\$294.00	\$294.00

The operator reports that the homeowner was installing drain lines and hit 1/2" gas service. Hit with backhoe. Homeowner did not call 811.

## INVESTIGATION

This would be Mr. Wilkey's first violation.

Reverse phone website confirms this number for Mr. Wilkey,

October 23, 2020

- Called 270.210.8256, left a vm.

October 30, 2020

- Called 270.210.8256, spoke to Mr Wilkey, he wanted to research to make sure he wasn't being scammed. I gave him my name, telephone number, and email address, and asked that he get back in touch with me within one week.

November 9, 2020

- Called 270.210.8256, left another v.m.

### **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

## Benton Gas System City of Benton

Submitted 2/18/2020 Incident ID: 32439

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32439\)](#)

### Reported By:

Name: Brittany Canup  
Phone: 2707031338  
Email: bcanup@bentongas.org

### Gas Line Incident Occured:

Date: 2/16/2020  
Time: 11:50 AM

### Details:

Reported Date: 2/18/2020 3:45 PM

### Incident Location Address:

**Location:**

Address: 1628 US Highway 68 E  
City: Benton  
State: KY  
County: Marshall  
Zip: 42025  
Confirm Code: Y

Number of Customers out: 0

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.:

Excavator: Home Owner

### Excavator Address:

First Name: Terry  
Last Name: Wilkey  
Phone: 270-210-8256  
Email:  
Address: 1628 US Highway 68 E  
City: Benton

State: KY  
Zip: 42025  
Confirm Code: Y  
Excavation Damage: Other insufficient excavation practices

Description of Incident Installing drain lines and hit 1/2" gas service.

Summary Information

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2/18/2020

**Full details such as the cause** Installing drain lines and hit 1/2" gas service. Hit with backhoe.  
**Extent of the damage** Blew for 25 mins.  
**Cost of the damage** \$294.00  
**Steps taken to prevent re-occurrence** Hand dig 18" of either side of utility.  
**Amount billed to excavator** \$294.00

Terry Wilkey  
1628 US Highway 68 E  
Benton, KENTUCKY 42025