

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NICHOLS CONTRACTING LLC	)	
	)	
_____	)	CASE NO.
	)	2021-00268
ALLEGED VIOLATION OF UNDERGROUND	)	
FACILITY DAMAGE PREVENTION ACT	)	

OPENING ORDER

Nichols Contracting LLC (Nichols Contracting) 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,

---

<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 Nichols Contracting 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 Nichols Contracting 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. Nichols Contracting 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.

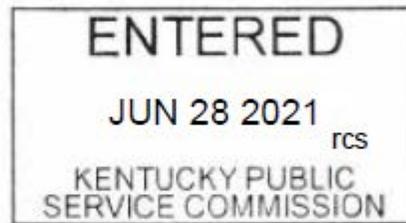
2. **Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.**

3. The Staff Incident Report 32452 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 Nichols Contracting 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.**

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

By the Commission



ATTEST:

A handwritten signature in blue ink that reads "Linda C. Bidwell". The signature is written in a cursive style.

Executive Director

Case No. 2021-00268

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2021-00268 DATED JUN 28 2021

FIVE PAGES TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

<b>KY PSC Investigator(s)</b> John E. Gowins	<b>Incident ID</b> 32452
<b>Incident Date</b> 2/19/2020 4:45:00 PM	<b>Report Submitted</b> 3/4/2020 10:06:46 AM

## OPERATOR INFORMATION

<b>Operator</b> Delta Natural Gas Company, Inc.	<b>Reported By</b> Craig Mitchell
<b>Phone</b> 859-744-6171 Ext. 1124	<b>Email</b> cmitchell@deltagas.com
<b>Incident Location</b> Int. Williams Rd. and KY-39 (Sulfur Well Rd.) Nicholasville, KY 40356	<b>Locate Ticket Number</b>
Jessamine	

## EXCAVATOR INFORMATION

<b>Name of Excavator</b> Nichols, Brandon	<b>Organization ID</b> 102109
<b>Phone</b> 859-354-5588 or 859-379-4	<b>Email</b> NicholsContracting2018@gmail.
<b>Excavator Address</b> Nichols Contracting LLC 2200 Mackey Pike Nicholasville, KY 40356	<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	2/19/20	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	\$549.00	\$0.00

The operator reports that Brandon Nichols with Nichols Contracting LLC was digging with an excavator to install an electric line when he hit and punctured a 2" plastic natural gas main line.

He did not call 811 to request a line location prior to excavating and therefore they did not know the location of the existing 2" plastic natural gas main line.

### **INVESTIGATION**

This would be the company's first violation.

Website has phone number of: 859.379.4808.

October 27, 2020

- Called 859.379.4808, he requested I call him back, I indicated I would call back tomorrow.

October 28, 2020

- Called 859.379.4808, Mr. Nichols indicated the developer James Monroe had requested the dig ticket. Mr. Nichols acknowledged responsibility for hitting the line and 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

Delta Natural Gas Company, Inc.

Submitted 3/4/2020 Incident ID 32452

[Set back to Edit](#)

[Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32452\)](#)

## Reported By:

Name	Craig Mitchell
Phone	859-744-6171 Ext. 1124
Email	cmitchell@deltagas.com

## Gas Line Incident Occured:

Date	2/19/2020
Time	4:45 PM

## Details:

Reported Date	2/25/2020 4:12 PM
---------------	-------------------

## Incident Location Address:

Location	Int. Williams Rd. and KY-39 (Sulfur Well Rd.)
Address	Int. Williams Rd. and KY-39 (Sulfur Well Rd.)
City	Nicholasville
State	KY
County	Jessamine
Zip	40356

Confirm Code

Number of Customers out 8

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 Contractor

## Excavator Address:

First Name	Brandon
Last Name	Nichols
Organization ID	102109
Company	Nichols Contracting LLC
Phone	859-354-5588 or 859-379-4
Email	NicholsContracting2018@gmail.com

<b>Address</b>	2200 Mackey Pike
<b>City</b>	Nicholasville
<b>State</b>	KY
<b>Zip</b>	40356
<b>Confirm Code</b>	Y
<b>Excavation Damage</b>	No notification made to the One Call Center

**Description of Incident** Brandon Nichols with Nichols Contracting LLC was digging with an excavator to install an electric line when he hit and punctured a 2" plastic natural gas main line.

### Summary Information

---

3/4/2020

<b>Full details such as the cause</b>	Brandon Nichols with Nichols Contracting LLC did not call 811 to request a line location prior to excavating and therefore they did not know the location of the existing 2" plastic natural gas main line.
<b>Extent of the damage</b>	There were no injuries or property damage attributable to this incident. Delta employees replaced approximately 2' of 2" plastic pipe and installed (2) 2" electrofusion couplings to re-establish service to the (8) customers that had been impacted by the event.
<b>Cost of the damage</b>	\$549.00
<b>Steps taken to prevent re-occurrence</b>	Brandon Nichols with Nichols Contracting LLC was informed that the law requires anyone that is going to do any type of excavation work must call 811 and request a line location at least two working days prior to starting work and, when excavation is necessary within the approximate location of the pipeline (18" on either side), the law requires hand digging or use of non intrusive means to avoid damage to the pipeline.
<b>Amount billed to excavator</b>	\$0.00

---

## Nichols Contracting LLC

---

### General Information

---

<b>Organization Number</b>	1025109
<b>Name</b>	Nichols Contracting LLC
<b>Profit or Non-Profit</b>	P - Profit
<b>Company Type</b>	KLC - Kentucky Limited Liability Company
<b>Status</b>	A - Active
<b>Standing</b>	G - Good
<b>State</b>	KY
<b>Country</b>	USA
<b>File Date</b>	6/26/2018 10:32:50 AM
<b>Organization Date</b>	6/26/2018
<b>Last Annual Report</b>	9/16/2020
<b>Principal Office</b>	2200 Mackey Pike Nicholasville, KY 40356
<b>Managed By</b>	Members
<b>Registered Agent</b>	Brandon Nichols 2200 Mackey Pike Nicholasville, KY 40356

### Current Officers

---

<b>Member</b>	<a href="#">Iearl Brandon Nichols</a>
---------------	---------------------------------------

### Individuals / Entities listed at time of formation

---

<b>Organizer</b>	<a href="#">Brandon Nichols</a>
<b>Registered Agent</b>	<a href="#">Brandon Nichols</a>

### Images available online

---

Documents filed with the Office of the Secretary of State on September 15, 2004 or thereafter are available as scanned images or PDF documents. Documents filed prior to September 15, 2004 will become available as the images are created.

<a href="#">Annual Report</a>	9/16/2020	1 page	<a href="#">PDF</a>
<a href="#">Annual Report</a>	8/20/2019	1 page	<a href="#">PDF</a>
<a href="#">Articles of Organization</a>	6/26/2018 10:32:52 AM	1 page	<a href="#">PDF</a>

### Assumed Names

---

### Activity History

---

Filing	File Date	Effective Date	Org. Referenced
Annual report	9/16/2020 11:38:48 AM	9/16/2020 11:38:48 AM	
Annual report	8/20/2019 6:01:44 PM	8/20/2019 6:01:44 PM	
Add	6/26/2018 10:32:50 AM	6/26/2018 10:32:50 AM	

### Microfilmed Images

---

\*Brandon Nichols  
Registered Agent  
Nichols Contracting LLC  
2200 Mackey Place  
Nicholasville, KENTUCKY 40356