

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOEY CASEY)	
)	
_____)	CASE NO.
)	2021-00271
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

Joey Casey (Mr. Casey) 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. Casey for violation of the following provisions of the Act:

KRS 367.4911(10) – When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

and

KRS 367.4911(8) – The excavator shall contact the protection notification center to request remarking two (2) working days in advance of the expiration of each twenty-one (21) day period while excavation or demolition continues

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds prima facie evidence that Mr. Casey 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. Casey 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. **Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in**

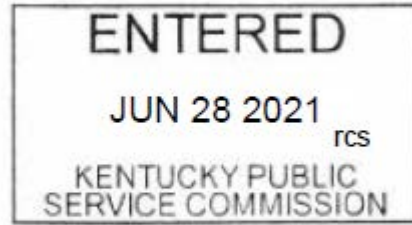
Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.

3. The Staff Incident Report 32692 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. Casey 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:



Linda C. Bidwell
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00271 DATED JUN 28 2021

ELEVEN PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 32692
Incident Date 5/13/2020 6:29:00 PM	Report Submitted 6/15/2020 10:57:33 AM

OPERATOR INFORMATION

Operator Duke Energy Kentucky, Inc.	Reported By Laura Mate
Phone (513) 287-2594	Email Laura.Mate@duke-energy.com
Incident Location 108 Tando Way Ft Mitchell, KY 41017 Kenton	Locate Ticket Number No ticket

EXCAVATOR INFORMATION

Name of Excavator Casey, Joey	Organization ID
Phone 859-757-9821	Email
Excavator Address 108 Tando Way Ft Mitchell, KY 41017	Locate Ticket Number

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
2004161595	No	4/16/20	5/7/20	5/13/20	6	Yes

Excavation Summary

Excavation Within Tolerance Zone	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
Yes	Mechanized	\$626.00	\$626.00

The operator reports that the tenant at this address was performing concrete work for the home owner and did not call 811 to obtain a ticket. Gas service was damaged by a bobcat.

INVESTIGATION

This would be Mr. Casey's first violation.

A review of the email provided by Duke indicates that PRG tried for several months to contact Mr. Casey with no result. Requested research by admin.

February 24, 2021

- Called 859.757.9821, Mr. Casey said he was doing the work as a favor for Kerri Mapes, who called in the dig ticket (2004161595). I explained that it is a violation to use mechanized equipment within 18 inches of the locate mark, no matter the depth. Mr. Casey agreed to the reduced penalty and remedial measure. Since this was not being done for profit he was given the lower homeowner penalty. Address 4840 Fowler Creek Rd, Covington, KY, 41017.

VIOLATION

KRS 367.4911 (8) The excavator shall contact the protection notification center to request remarking two (2) working days in advance of the expiration of each twenty-one (21) day period while excavation or demolition continues.

KRS 367.4911 (10) When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

Gas Excavation Damage Report

Duke Energy Kentucky, Inc.

Submitted 6/15/2020 Incident ID 32692

[Set back to Edit](#)
[Staff Edit](#)
[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32692\)](#)

Reported By:

Name	Laura Mate
Phone	(513) 287-2594
Email	Laura.Mate@duke-energy.com

Gas Line Incident Occured:

Date	6/15/2020
Time	6:29 PM

Details:

Reported Date	6/15/2020 10:45 AM
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Incident Location Address:

Location	108 Tando Way
Address	108 Tando Way
City	Ft Mitchell
State	KY
County	Kenton
Zip	41017
Confirm Code	Y

Number of Customers out	1
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Was gas or hazardous liquids contained in the underground facility?	<input checked="" type="checkbox"/>
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Was gas or hazardous liquids released into the atmosphere?	<input checked="" type="checkbox"/>	*
		3/2020

Locate Request Ticket No.	No ticket
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Excavator	Home Owner
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Excavator Address:

First Name	Joey
Last Name	Casey
Phone	859-757-9821
Email	
Address	108 Tando Way
City	Ft Mitchell

State	KY
Zip	41017
Confirm Code	Y
Excavation Damage	No notification made to the One Call Center

Description of Incident Gas service was damaged by bobcat.

Summary Information

6/15/2020

Full details such as the cause	Tenant at this address was performing concrete work for the home owner and did not call 811 to obtain a ticket. Gas service was damaged by a bobcat.
Extent of the damage	Gas service needed to be replaced.
Cost of the damage	\$626.00
Steps taken to prevent re-occurrence	
Amount billed to excavator	\$626.00



INVOICE



Please Make Check Payable to: Project Resources Group

Remit to: Project Resources Group, Inc. Attn. Damage Claims 5340 S. Quebec St., Suite 250S Greenwood Village, CO 80111 EIN: 84-1576547	Invoice # DK-440950 Date: June 2, 2020 Terms: Due Upon Receipt Conf. Code # 827JG
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Responsible for Damages: Joey Casey 108 Tando Way Covington, KY 41017

Date & Address Where Damage Occurred: 5/13/2020 108 Tando Way Ft. Mitchell, KY 41017

Labor and Materials Costs:		<u>Units</u>	<u>Unit Rate</u>	<u>Amount</u>
<i>Internal Labor Costs</i>				
	Mechanic Operator III	3.00	\$55.80	\$167.40
	Mechanic Operator I	2.00	\$73.32	\$146.64
	Emergency Call Out	1.00	\$175.00	\$175.00
	Pintle / Ball Utility, Material, Equipment Trailer	3.00	\$0.83	\$2.49
	Damage Investigation/Quality Control			<u>\$126.00</u>
	Sub-Total			\$617.53
<i>Material Costs</i>				
	Cap; Pipe	1.00	\$8.95	<u>\$8.95</u>
	Sub-Total			\$8.95
Invoice Total				<u>\$626.48</u> =====

Please Make Check Payable to: Project Resources Group

For questions regarding this invoice, please contact: Charles Curry, (704) 325-4557 or via email ccurry@prgconsulting.net

Damage Investigation Findings

PRG CLAIM: DK-440950
DATE OF OUTAGE: 05/13/2020 06:20 PM
NOTIFICATION: 05/13/2020 06:31 PM
ARRIVAL: 05/13/2020 07:04 PM
LOCATION: 108 Tando Way, Covington, KY 41017
LOCATE TICKET:
INVESTIGATOR: Jason Raleigh

SUMMARY

On Wednesday, May 13, 2020, I was notified by Duke Energy about damage at 108 Tando Way, Covington, KY 41017. Duke Energy's Underground Facilities were damaged at the above stated location by a Bobcat.



STATEMENTS

I arrived on site and spoke to Joey Casey (damaging party) he stated that he was doing the work for the owner of the house. Joey Casey did not have a locate ticket and damaged the gas pipe from the curb all the way to the meter.

DETERMINATION

On Wednesday, May 13, 2020, Duke Energy suffered damage to its facilities at the above stated location as a direct result of Concrete by Joey Casey. In light of these circumstances, it has been determined that Joey Casey will be held liable for this damage and the associated costs to Duke Energy.

Law(s): KRS 367.4911

Excavator or person responsible for excavation to notify operator of work schedule -- Responsibilities of excavator. (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. Excavator or person responsible for excavation to notify operator of work schedule -- Responsibilities of excavator.



ROOT CAUSE

Failure to notify the One Call Center



440950 - Investigator1.JPG



440950 - Investigator2.JPG



440950 - Investigator3.JPG



440950 - Investigator4.JPG



440950 - Investigator5.JPG



440950 - Investigator6.JPG



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440950 - Investigator21.JPG



440950 - Investigator22.JPG



440950 - Investigator23.JPG

NORMAL NOTICE

Ticket : 2004161595 Date: 04/16/2020 Time: 15:13 Oper: KWEAVER Chan:000

State: KY Cnty: KENTON City: COVINGTON
Subdivision:

Address : 108
Street : TANDO WAY
Cross 1 : BLUFFSIDE DR

Location: STANDING ON THE ROAD FACING THE PROPERTY - LOCATE ALONG BOTH SIDES OF
THE DRIVEWAY EXTENDING OUT TO THE PROPERTY LINE ON THE LEFT SIDE - PROPERTY LINE
IS MARKED OUT

:

Boundary: n 38.982034 s 38.977681 w -84.521913 e -84.519207

Work type : DRIVEWAY WIDENING

Done for : KERRI MAPES

Start date: 04/20/2020 Time: 15:30 Hours notice: 96/48 Priority: NORM

Ug/Oh/Both: U Blasting: NO

Emergency: N

Duration : N/A

Depth: 3 FEET

Company : KERRI MAPES Type: HOME

Co addr : 108 TANDO WAY

City : FT MITCHELL State: KY Zip: 41017

Caller : KERRI MAPES Phone: (859)415-5573

Contact : KERRI MAPES - CELL Phone:

Mobile : (859)415-5573

Submitted date: 04/16/2020 Time: 15:13

Members: 0130 0416

Joey Casey
4840 Fowler Creek Rd
Covington, KENTUCKY 41017