

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MAXIMUM PLUMBING INC.)	
)	
_____)	CASE NO.
)	2021-00361
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

Maximum Plumbing Inc. (Maximum Plumbing) 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 Maximum Plumbing for violations of the following provision of the Act:

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.

and

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.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds prima facie evidence that Maximum Plumbing 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. Maximum Plumbing 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. An individual may submit a response to the allegations contained in the Staff Incident Report without the representation of an attorney.

4. The Staff Incident Report 42813 in the Appendix to this Order is made a part of the record in this case.

5. **Please note that notice of a hearing to be held in this matter will be mailed to Maximum Plumbing 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.**

By the Commission



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00361 DATED SEP 29 2021

THIRTY-FOUR PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 42813
Incident Date 6/26/2020 11:00:00 AM	Report Submitted 7/23/2020 12:00:00 AM

OPERATOR INFORMATION

Operator Duke Energy Kentucky, Inc.	Reported By Laura Mate
Phone (859) 206-4639	Email Laura.Mate@duke-energy.com
Incident Location 28 Wilorn 28 Wilorn Dr Dry Ridge, KY 41035	Locate Ticket Number 2005250345
Grant	

EXCAVATOR INFORMATION

Name of Excavator Wheatley, Morgan	Organization ID 0625795
Phone 8593939287	Email MAXPLUMBINGKY@GMAIL.C
Excavator Address Maximum Plumbing Inc 13553 Salem Creek Rd Crittenden, KY 41030	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
2005250345	No	5/25/20	6/15/20	6/26/20	11	Yes

Excavation Summary			
Excavation Within Tolerance Zone	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
Yes	Mechanized	\$0.00	\$0.00

The operator reports that the ticket had been marked by USIC, but had become expired by the time of the damage. Contractor struck gas service with a backhoe while excavating for a sewer installation.

INVESTIGATION

This would be the company's first violation.

Maximum Plumbing Inc is inactive and in bad standing with the Secretary of State's office.

March 9, 2021

- Called 859.393.9287, spoke to Morgan Wheatley. He stated that the line was only 14 inches deep, but was using mechanized equipment when he hit the line. He also stated that the line was only 14 inches deep, however I did not have the opportunity to explain that the requirement was 12 inches deep. I explained the three options to Mr. Wheatley, who was not inclined to agree to any of them, so I explained I would send the letter with the reduced penalty and remedial and if he decided to go the hearing route he could let me know.

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 7/23/2020 Incident ID 42813

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=42813\)](#)

Reported By:

Name	Laura Mate
Phone	(859) 206-4639
Email	Laura.Mate@duke-energy.com

Gas Line Incident Occured:

Date	6/26/2020
Time	11:00 AM

Details:

Reported Date	7/23/2020 10:43 AM
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Incident Location Address:

Location	28 Wilom
Address	28 Wilom Dr
City	Dry Ridge
State	KY
County	Grant
Zip	41035

Confirm Code

Number of Customers out 1

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. 2005250345

Excavator Contractor

Excavator Address:

First Name	Morgan
Last Name	Wheatley
Organization ID	0625795
Company	Maximum Plumbing Inc
Phone	8593939287
Email	MAXPLUMBINGKY@GMAIL.COM

Address 13553 Salem Creek Rd
City Crittenden
State KY
Zip 41030
Confirm Code

Excavation Damage Failure to use hand tools where required

Description of Incident Maximum Plumbing struck the underground service line while installing downspout drainage. The locate ticket provided was expired (2005250345).

Summary Information

7/23/2020

Full details such as the cause Ticket had been marked by USIC, but had become expired by the time of the damage. Contractor struck gas service with a backhoe while excavating for a sewer installation.
Extent of the damage Gas service damaged by backhoe.
Cost of the damage \$0.00
Steps taken to prevent re-occurrence
Amount billed to excavator \$0.00



Kentucky Secretary of State

Michael G. Adams



MAXIMUM PLUMBING INC

File Annual Report

Reinstatement Package (PDF)

Printable Forms

Additional Services

General Information

Organization Number	0625795
Name	MAXIMUM PLUMBING INC
Profit or Non-Profit	P - Profit
Company Type	KCO - Kentucky Corporation
Status	I - Inactive
Standing	B - Bad
State	KY
File Date	11/16/2005
Organization Date	11/16/2005
Last Annual Report	12/11/2018
Principal Office	13553 SALEM CREEK RD CRITTENDEN, KY 41030
Registered Agent	MORGAN WHEATLEY 13553 SALEM CREEK RD CRITTENDEN, KY 41030
Authorized Shares	1000

Current Officers

President	morgan thomas wheatley
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Individuals / Entities listed at time of formation

Incorporator MORGAN WHEATLEY

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.

Administrative Dissolution	10/16/2019	1 page	PDF	
Reinstatement Certificate of Existence	12/11/2018 12:09:04 PM	2 pages	PDF	
Reinstatement	12/11/2018 12:08:44 PM	3 pages	PDF	
Principal Office Address Change	12/11/2018	1 page	tiff	PDF
Registered Agent name/address change	12/11/2018	1 page	tiff	PDF
Administrative Dissolution	11/3/2009	1 page	PDF	
Sixty Day Notice Return	9/16/2009	2 pages	tiff	PDF
Annual Report	8/21/2008	1 page	PDF	
Annual Report	9/15/2007	1 page	PDF	
Annual Report	5/4/2006	1 page	PDF	
Articles of Incorporation	11/16/2005	1 page	tiff	PDF

Assumed Names

Activity History

Filing	File Date	Effective Date	Org. Referenced
Admin Dis. A. report not in	10/16/2019	10/16/2019	
Registered agent address change	12/11/2018 3:33:01 PM	12/11/2018	
Principal office change	12/11/2018 12:15:06 PM	12/11/2018	
Reinstatement	12/11/2018 12:09:01 PM	12/11/2018	
Admin Dis. A. report not in	11/3/2009	11/3/2009	
Annual report	8/21/2008 4:07:29 PM	8/21/2008 4:07:29 PM	
Annual report	9/15/2007 10:33:19 PM	9/15/2007 10:33:19 PM	
Annual report	5/4/2006 1:07:08 PM	5/4/2006 1:07:08 PM	
Add	11/16/2005 2:08:26 PM	11/16/2005	

Microfilmed Images

[Contact](#) [Site Map](#)

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Kentucky Unbridled Spirit

NORMAL NOTICE

Ticket : 2005250345 Date: 05/25/2020 Time: 20:33 Oper: CDUNSMORE Chan:000

State: KY Cnty: GRANT City: DRY RIDGE
Subdivision:

Address : 28
Street : WILORN DR
Cross 1 : KY RT 22
Location: LOCATE THE ENTIRE FRONT YARD
:

Boundary: n 38.683856 s 38.678559 w -84.608500 e -84.606260

Work type : REPAIR/REPLACE WATER SERVICE
Done for : HOMEOWNER
Start date: 05/28/2020 Time: 07:00 Hours notice: 58/48 Priority: NORM
Ug/Oh/Both: U Blasting: NO Emergency: N
Duration : N/A Depth: 4 FEET

Company : MAXIMUM PLUMBING Type: CONT
Co addr : 13553 SALEM CREEK RD
City : CRITTENDEN State: KY Zip: 41030
Caller : MORGAN WHEATLEY Phone: (859)393-9287
Contact : MORGAN WHEATLEY - CELL Phone:
Mobile : (859)393-9287
Email : MAXPLUMBINGKY@GMAIL.COM

Submitted date: 05/25/2020 Time: 20:33
Members: 0088 0130 0209 0416 0716

Gowins, John E (PSC)

From: Mate, Laura L <Laura.Mate@duke-energy.com>
Sent: Wednesday, March 10, 2021 9:47 AM
To: Gowins, John E (PSC)
Subject: RE: [EXTERNAL] Incident # 42813
Attachments: 42813 - 28 Wilorn - Claim Support Package.pdf

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

The claim was paid by Morgan Wheatley – 859-393-9287.

Let me know if you need anything else,
Laura

From: Gowins, John E (PSC) <john.gowins@ky.gov>
Sent: Wednesday, March 10, 2021 9:18 AM
To: Mate, Laura L <Laura.Mate@duke-energy.com>
Subject: [EXTERNAL] Incident # 42813

Laura,
Can you send any additional documentation such as the PRG report on this one, please?
Thanks.

John E. Gowins
Consumer Complaints Investigator II
Division of Inspections
Kentucky Public Service Commission
502.782.2656 office
502.229.3058 cell



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-443634 Date: August 10, 2020 Terms: Due Upon Receipt Conf. Code # 78ZEE
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Responsible for Damages: Maximum Plumbing 13553 Salem Creek Rd. Crittenden, KY 41030
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Date & Address Where Damage Occurred: 6/26/2020 28 Wilorn Dr Dry Ridge, KY 41035

Labor and Materials Costs:			
	<u>Units</u>	<u>Unit Rate</u>	<u>Amount</u>
<i>Internal Labor Costs</i>			
Service Mechanic B	2.00	\$72.31	\$144.62
Mechanic Operator I	4.00	\$73.51	\$294.04
Mechanic III - C&M (12049)	4.00	\$35.79	\$143.16
Emergency Call Out	1.00	\$175.00	\$175.00
SRW Utility, Stake, Flat 4x4	2.00	\$10.09	\$20.18
DRW 15-26K Utility, Stake, Flat, Dump 4x4	4.00	\$12.39	\$49.56
Damage Investigation/Quality Control			<u>\$220.00</u>
Sub-Total			\$1,046.56
<i>Other Costs</i>			
Loss of Gas	1.00	\$41.71	<u>\$41.71</u>
Sub-Total			\$41.71
<i>Material Costs</i>			
Coupling	2.00	\$5.37	\$10.74
Pipe	1.00	\$0.47	<u>\$0.47</u>
Sub-Total			\$11.21
Invoice Total			<u>\$1,099.48</u> =====

Please Make Check Payable to: Project Resources Group

For questions regarding this invoice, please contact: Marlene Ferman, (720) 580-1954 or via email mferman@prgconsulting.net

Damage Investigation Findings

PRG CLAIM: DK-443634
DATE OF OUTAGE: 06/26/2020 11:00 AM
NOTIFICATION: 06/26/2020 11:01 AM
ARRIVAL: 06/26/2020 11:54 AM
LOCATION: 28 Wilorn Dr, Dry Ridge , KY 41035
LOCATE TICKET: 2005250345
INVESTIGATOR: Jason Raleigh

SUMMARY

On Friday, June 26, 2020, I was notified by Duke Energy about damage at 28 Wilorn Dr, Dry Ridge, KY 41035. Duke Energy's Underground Facilities were damaged at the above stated location by a Backhoe.



STATEMENTS

Maximum Plumbing struck the underground service line while installing downspout drainage. The locate ticket provided was expired (2005250345).

DETERMINATION

On Friday, June 26, 2020, Duke Energy suffered damage to its facilities at the above stated location as a direct result of a sewer installation/repair by Maximum Plumbing. In light of these circumstances, it has been determined that Maximum Plumbing 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. (2) Locate requests are valid for twenty-one (21) calendar days from the day of the initial request.



ROOT CAUSE

Excavation on expired locate ticket

0416 00025 KUPIa 05/25/2020 20:36:58 2005250345-00A NORM NEW GRID

NORMAL NOTICE

Ticket : 2005250345 Date: 05/25/2020 Time: 20:33 Oper: CDUNSMORE Chan:000

State: KY Cnty: GRANT City: DRY RIDGE
Subdivision:

Address : 28
Street : WILORN DR
Cross 1 : KY RT 22
Location: LOCATE THE ENTIRE FRONT YARD

:
Boundary: n 38.683856 s 38.678559 w -84.608500 e -84.606260

Work type : REPAIR/REPLACE WATER SERVICE
Done for : HOMEOWNER
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Ug/Oh/Both: U Blasting: NO Emergency: N
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Company : MAXIMUM PLUMBING Type: CONT
Co addr : 13553 SALEM CREEK RD
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Caller : MORGAN WHEATLEY Phone: (859)393-9287
Contact : MORGAN WHEATLEY - CELL Phone:
Mobile : (859)393-9287
Email : MAXPLUMBINGKY@GMAIL.COM

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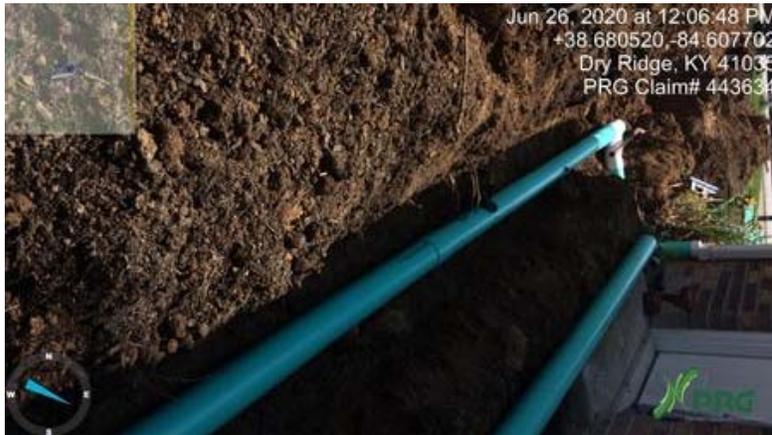
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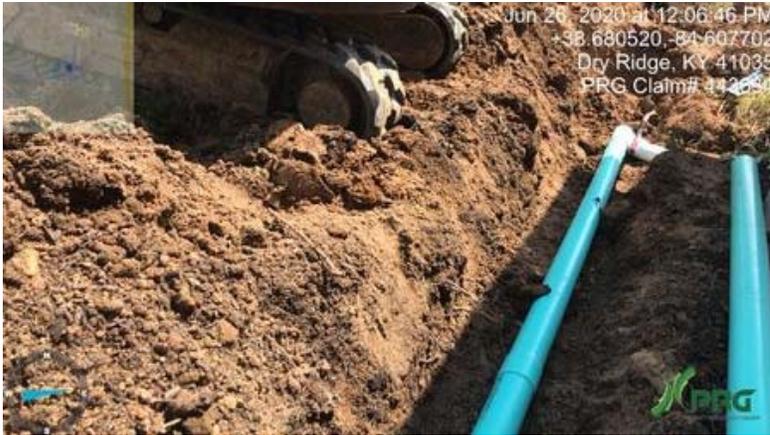
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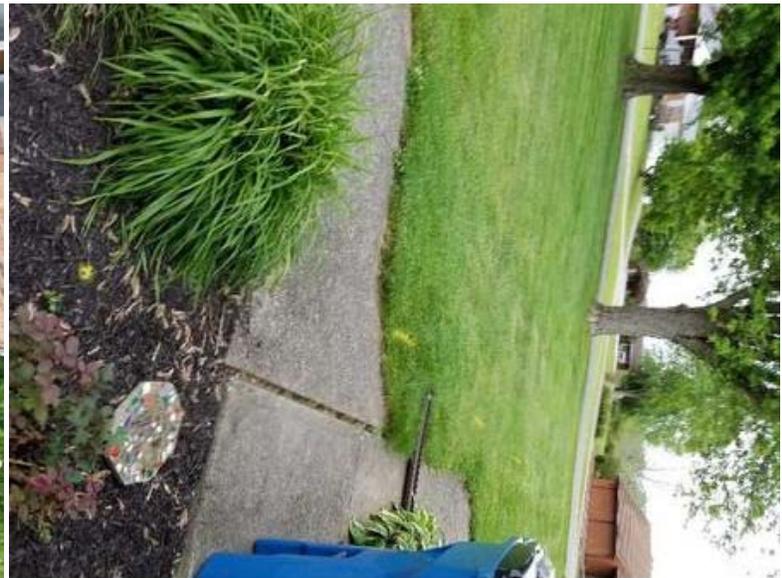
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*Maximum Plumbing Inc.
13553 Salem Creek Road
Crittenden, KENTUCKY 41030