

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

WRC 1, LLC D/B/A W. ROGERS COMPANY	)	
	)	
_____	)	CASE NO.
	)	2021-00034
ALLEGED VIOLATION OF UNDERGROUND	)	
FACILITY DAMAGE PREVENTION ACT	)	

OPENING ORDER

WRC 1, LLC d/b/a W. Rogers Company (W. Rogers Company) 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

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<sup>1</sup> KRS 367.4901 through KRS 367.4917.

results in damage to an underground facility containing any flammable, toxic, corrosive, 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 W. Rogers Company for violation of the following provision 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.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds prima facie evidence that W. Rogers Company 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. W. Rogers Company 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.

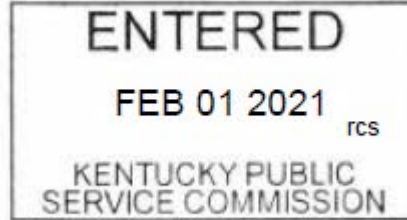
2. **Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.**

3. The Staff Incident Report 32445 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 W. Rogers Company 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. Redwell  
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2021-00034 DATED FEB 01 2021

FIFTEEN PAGES TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

<b>KY PSC Investigator(s)</b> Eric V. Tout <b>Incident Date</b> 12/19/2019 10:40:00 AM	<b>Incident ID</b> 32445 <b>Report Submitted</b> 2/21/2020 11:58:48 AM
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## OPERATOR INFORMATION

<b>Operator</b> Columbia Gas of Kentucky, Inc. <b>Phone</b> (859) 533-4022 <b>Incident Location</b> 117 Lackawanna Rd Lexington, KY 40503 Fayette	<b>Reported By</b> Ryan Twait <b>Email</b> rmtwait@nisource.com <b>Locate Ticket Number</b> 1912121053
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## EXCAVATOR INFORMATION

<b>Name of Excavator</b> Hopkins, Bruce <b>Phone</b> 859-231-6290 <b>Excavator Address</b> WRC 1, LLC d/b/a W. Rogers Company 649 Bizzell Dr. Lexington, KY 40510	<b>Organization ID</b> 0968818 <b>Email</b> <b>Locate Ticket Number</b>
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### INCIDENT

The Operator reports that the Excavator damaged a properly marked two inch gas main with mechanized equipment. **The Damage Report is include as Attachment 1.**

### Excavation Summary

Excavation Within 18" (Approximate Location)	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
Yes	Mechanized / Not Specified	\$1,915.00	\$1,915.00

### Locate Ticket (LT) Summary

Ticket #	Valid	Initial Date	Expiration Date (21 calendar days from Initial date)	Incident Date	# of Days Expired	Within Scope of Excavation
1912121053	Yes	12/12/19	01/02/20	12/19/20	0	Yes

**The Locate Ticket(s) is/are include as Attachment 2.**

### INVESTIGATION

On 09/17/20 an attempt in contacting the Excavator resulted in a message being left for Boyd Rogers 859-231-6290-1.

On 09/18/20 Mr. Rogers (859-410-7220) stated that he would research and call back in few hours.

On 09/18/20 the Operator, Columbia's Ryan Twait provided the following documents.

- Damage to Co. Facilities Report: Indicating Bruce Hopkins of the W. Rogers Company was expanding the excavation when he hooked into the main.
- Photographs: Depicting the damage occurred within the approximate location/"tolerance zone" of 18 inches.

**Mr. Twait's Documents are include in Attachment 3.**

On 09/21/20 Mr. Rogers stated that this incident was a result of mechanized equipment being utilized within the approximate location/"tolerance zone" 18 inches and he was aware a \$4,000.00 penalty would be imposed.

### VIOLATION

**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.

**# of Offences**  
(Including this incident)

<b>Excavator</b>	<b>Last Offence Incident #</b>	<b>Last Offence Incident Date</b>	<b>Last Offence Resolved Date</b>
3 <sup>rd</sup> or Subsequent	32023	08/27/19	04/02/20

# Attachment 1



# Gas Excavation Damage Report

## Columbia Gas of Kentucky, Inc.

Submitted 2/21/2020 Incident ID: 32445

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32445\)](#)

### Reported By:

**Name:** Ryan Twait  
**Phone:** (859) 533-4022  
**Email:** rmtwait@nisource.com

### Gas Line Incident Occured:

**Date:** 12/19/2019  
**Time:** 10:40 AM

### Details:

**Reported Date:** 2/21/2020 11:55 AM

### Incident Location Address:

**Location:**  
**Address:** 117 Lackawanna Rd  
**City:** Lexington  
**State:** KY  
**County:** Fayette  
**Zip:** 40503  
**Confirm Code:** Y

**Number of Customers out:** 3

**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.:** 1912121053

**Excavator:** Contractor

### Excavator Address:

**First Name:** Bruce  
**Last Name:** Hopkins  
**Organization ID:**  
**Company:** W. Rogers Company  
**Phone:** 859-231-6290  
**Email:**

**Address:** 649 Bizzell Dr.  
**City:** Lexington  
**State:** KY  
**Zip:** 40510  
**Confirm Code:**  
**Excavation Damage:** Other insufficient excavation practices

**Description of Incident** W. Rogers Company dug into a plastic two inch natural gas main line with mechanized equipment.

Summary Information

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2/21/2020

**Full details such as the cause** W. Rogers Company was excavating in an area with a locate ticket. W. Rogers Company was digging with mechanized equipment within the tolerance zone of a properly marked service line. While digging, W. Rogers Company struck and damaged a plastic two inch natural gas main line.

**Extent of the damage** A plastic two inch natural gas main line was punctured, and the main line was repaired.

**Cost of the damage** \$1,915.00

**Steps taken to prevent re-occurrence** While making repairs, CKY advised W. Rogers Company of the KY 811 Dig Law, and to always use hand tools within the tolerance zone of a marked facility.

**Amount billed to excavator** \$1,915.00

# Attachment 2

NORMAL NOTICE REMARK

Ticket : 1912121053 Date: 12/12/2019 Time: 13:48 Oper: BWESTERMAN Chan:000  
Old Tkt: 1911251017 Date: 11/25/2019 Time: 11:35 Oper: JWIMSATT Rev: 00A

State: KY Cnty: FAYETTE City: LEXINGTON  
Subdivision:

Address :

Street : LACKAWANNA RD

Cross 1 : NORFOLK DR

Location: FROM THE INTERSECTION - LOCATE HEADING WEST FOR 1500 FEET ON BOTH  
SIDES OF THE ROAD FROM RIGHT OF WAY TO RIGHT OF WAY - ENDING AT PENSACOLA DR

:

Boundary: n 38.017244 s 38.014252 w -84.522401 e -84.516402

Work type : INSTALL STORM SEWER

Done for : LEXINGTON FAYETTE URBAN COUNTY G

Start date: 12/16/2019 Time: 14:00 Hours notice: 96/48 Priority: NORM

Ug/Oh/Both: U Blasting: NO

Emergency: N

Duration : N/A

Depth: 5 FEET

Company : W ROGERS COMPANY Type: CONT

Co addr : 649 BIZZEL DR

City : LEXINGTON State: KY Zip: 40510

Caller : MAC FOSTER Phone: (859)321-2627

Contact : MAC FOSTER - CELL Phone:

Mobile : (859)338-6833

Email : MFOSTER@WROGERS.COM

Remarks : \* 0700 WAS NOT ON THE ORIGINAL VERSION OF THIS TICKET

:

Submitted date: 12/12/2019 Time: 13:48

Members: 0200 0326 0370 0700 2621 WINKY

# Attachment 3

## Tout, Eric V (PSC)

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**From:** rmtwait@nisource.com  
**Sent:** Friday, September 18, 2020 10:24 AM  
**To:** Tout, Eric V (PSC)  
**Subject:** Re: 32445, 12/19/2019, 117 Lackawanna Rd Lex,, W. Rogers Company

Hi Eric,

See below:

**DAMAGE TO COMPANY FACILITIES REPORT**

WMS JOB 1976-5228701 DATE 12-19-19 LOCATION 2621  
 DAMAGE LOCATION 117 Lackawanna RD  
 CITY Lexington STATE Ky ZIP CODE 40503 MAP# 6716208F

**RELATED JOBS**

JOB ORDER NUMBER	JOB TYPE	JOB ORDER NUMBER	JOB TYPE	JOB ORDER NUMBER	JOB TYPE
<u>10031608231</u>	<u>PR</u>				

REGULAR HOURS: (1X) HRS       OVERTIME HOURS: (1.5X) HRS       OVERTIME HOURS: (2X) HRS

**GENERAL INFORMATION**

\*TYPE OF FACILITY:  
 1 - PLANT/REGULATOR  
 2 - MAIN  
 3 - SERVICE LINE  
 4 - CUST. METER AND/OR REGULATOR  
 5 - BUILDING  
 6 - OTHER (COMMENTS REQUIRED)

\*MATERIAL:  
 CI - CAST IRON  
 CU - COPPER  
 OT - OTHER  
 P - PLASTIC  
 PI - PLASTIC INSERT  
 S - STEEL  
 ST - STEEL TREATED  
 WI - WROUGHT IRON

LINE SIZE: Ø 2"  
 DEPTH OF COVER: 36 INCHES  
 YEAR INSTALLED: \_\_\_\_\_  
 GAS LOST:  YES  NO

**DAMAGE DETAILS**

DPI NUMBER: D221928 DAMAGE DATE: 12-19-19 DAMAGE TIME: 10 HR 30 MIN  
 REPORTED BY: Fire Department REPORTED DATE: 12-19-19 REPORTED TIME: 10 HR 28 MIN  
 REPORTED TO: Jc TIME OF ARRIVAL: 10 HR 50 MIN TIME MADE SAFE: 11 HR 55 MIN  
 # OF CUST INTERRUPTED: 3 PERIOD OUT OF SERVICE: 5 hrs

\*TYPE OF ACTIVITY:  
 11 - CONSTRUCTION/MAINT-ROAD  
 12 - CONSTRUCTION/MAINT-SEWER  
 13 - CONSTRUCTION/MAINT-UTILITY  
 14 - CONSTRUCTION/MAINT-PRIVATE PROPERTY  
 15 - CONSTRUCTION/MAINT - DEMOLITION  
 18 - NATURAL FORCES-EARTH MOVE  
 19 - NATURAL FORCES-FROST  
 20 - NATURAL FORCES - LIGHTNING  
 21 - NATURAL FORCES - RAIN/WIND/SNOW/ICE  
 23 - OUTSIDE FORCE - VEHICLE ACCIDENT  
 24 - OUTSIDE FORCE - INTENTIONAL/VANDAL  
 25 - OUTSIDE FORCE - ELECTRICAL ARCING  
 26 - OUTSIDE FORCE  
 27 - OUTSIDE FORCE-FIRE/EXPLOSION  
 28 - OUTSIDE FORCE-PREVIOUS DAMAGE  
 29 - OUTSIDE FORCE - SEWER CLEAN OUT  
 31 - UNKNOWN/OTHER (COMMENTS REQUIRED ON REVERSE)

\*CAUSE OF DAMAGE:  
 A - EXCAVATION - FAILED TO NOTIFY 811  
 B - EXCAVATION - LOCATING ERROR  
 C - EXCAVATION - EXCAVATOR ERROR  
 D - EXCAVATION - POOR RECORDS  
 E - NATURAL FORCES  
 F - OTHER OUTSIDE FORCE

911 ON SITE:  YES  NO

**LINE MARKINGS**

FACILITY LOCATED:  YES  NO ONE CALL TICKET NUMBER: 1912121053

\*HOW FACILITY MARKED:  
 1 - EXPOSED  
 2 - PERMANENT MARKERS  
 3 - TEMP. STAKES OR PAINT  
 4 - ORAL  
 5 - OTHER  
 6 - N/A

\*HOW FACILITY WAS LOCATED:  
 1 - YES, VIA ONE-CALL  
 2 - YES, OTHER METHOD  
 3 - NO, OR N/A

\*LOCATE REQUESTED:  
 1 - Line Locator  
 2 - Other or Above  
 Ground

MARKS/MARKERS IN TOLERANCE ZONE:  YES  NO  
 IF NO, MARKS HOW FAR OFF: \_\_\_\_\_ FT. \_\_\_\_\_ IN.  
 DIST TO NEAREST MARK: \_\_\_\_\_ FT. 14 IN.  
 CONTRACT LOCATOR NOTIFIED OF DAMAGE:  Y  N

**REPAIRS**

\*REPAIR TYPE  
 1 - PERMANENT  
 2 - TEMPORARY

TEST FOR SECONDARY DAMAGE:  YES  NO  
 PICTURES STORED NETWORK DRIVE:  YES  NO  
 SKETCH ATTACHED:  YES  NO

PICTURES TAKEN:  YES  NO  
 PICTURES TAKEN BY: 403 staff/aw  
 RECORDS SUBMITTED:  YES  NO  N/A

**DAMAGING PARTY**

\*RESPONSIBILITY:  
 11 - COMPANY CREW (1<sup>ST</sup> PARTY)  
 12 - COMPANY CONTRACTOR (2<sup>ND</sup> PARTY)  
 13 - MUNICIPAL/ STATE CREW  
 14 - MUNICIPAL/ STATE CONTRACTOR  
 15 - OTHER UTILITY CREW  
 16 - OTHER UTILITY CONTRACTOR  
 17 - PRIVATE INDIVIDUAL  
 18 - PRIVATE CONTRACTOR  
 23 - NATURAL FORCES  
 25 - UNKNOWN  
 28 - OTHER

COMPANY NAME: W. Rogers  
 INDIVIDUAL NAME: Bruce Hopkins VEH LIC. PLATE NO. \_\_\_\_\_ STATE: \_\_\_\_\_  
 LOCATED AT: \_\_\_\_\_  
 CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_  
 OFFICE/HOME PHONE: (\_\_\_\_) \_\_\_\_\_ CELL PHONE: (\_\_\_\_) \_\_\_\_\_  
 E-MAIL ADDRESS: \_\_\_\_\_  
 INSURANCE NAME: \_\_\_\_\_

LINE SIZE: 020

STABLE SUPPLY PRESSURE: 37 MAOP: 37

\*MATERIAL:

- CI - CAST IRON  CU - COPPER
- P - PLASTIC  OT - OTHER
- PI - PLASTIC INSERT
- S - STEEL
- ST - STEEL TREATED

BLOWING OPEN:  YES  NO WAS GAS RESTRICTED:  YES  NO

IF YES, HOW \_\_\_\_\_

HOW LONG RESTRICTED: \_\_\_ HR \_\_\_ MIN EXCESS FLOW VALVE:  YES  NO

IF MAIN, DISTANCE TO INTERSECTION OR MAPPABLE FEATURE: 40 FT. IF SERVICE, DISTANCE FROM DAMAGE TO MAIN: \_\_\_\_\_ FT.

\*\*\*\*\*COMMENTS\*\*\*\*\*

ADDITIONAL FACTS OF COMMENTS:

MATERIALS USED:

Found 2 inch Plastic medium pressure main hit in excavation.  
Excavator had been moved from damage upon arrival. No mitigation  
found in other underground facilities

1<sup>ST</sup> RESPONDER NAME: David Young  
(PRINT)

2<sup>ND</sup> RESPONDER NAME: Bob Stinson  
(PRINT)

David Young  
(SIGNATURE)

[Signature]  
(SIGNATURE)

FIELD OPERATIONS LEADER (FOL) ON SITE:  YES  NO HRS/MINS ON SITE: \_\_\_\_\_ HR \_\_\_\_\_ MIN FOL FACTS OR COMMENTS:

FIELD OPERATIONS LEADER NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

FIELD ENGINEER ON SITE:  YES  NO HRS/MINS ON SITE \_\_\_\_\_ HR \_\_\_\_\_ MIN FIELD ENGINEER FACTS OR COMMENTS:

FIELD ENGINEER NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

COMPANY/CONTRACT LOCATOR ON SITE:  YES  NO COMPANY/CONTRACT LOCATOR COMMENTS:

NAME: \_\_\_\_\_

DAMAGING PARTY COMMENTS

Drew Hopkins with W. Rogers says he was digging to expand  
excavation and hooked into main.

NAME \_\_\_\_\_ TITLE \_\_\_\_\_









Ryan Twait  
Manager, Operations Compliance  
Columbia Gas of Kentucky  
Cell: 859-533-4022

Office: 859-288-0234



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From: "Tout, Eric V (PSC)" <ericv.tout@ky.gov>  
To: "rmtwait@nisource.com" <rmtwait@nisource.com>,  
Date: 09/18/2020 09:36 AM  
Subject: 32445, 12/19/2019, 117 Lackawanna Rd Lex., W. Rogers Company

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USE CAUTION: This email was sent from an external source. Think before you click links or open attachments. If suspicious, please forward to [security@nisource.com](mailto:security@nisource.com) for review.

Hello Ryan,

The Excavator stated that they have down sized and the employees on this job are no longer with the company, he is looking, but does not think the company has a record. Going to have to rely on your report, please send the report and photos on this one.

*Thanks,  
Eric V. Tout  
Kentucky Public Services Commission  
Division of Inspections / Damage Prevention  
211 Sower Blvd., Frankfort, KY 40601  
Office: 502-782-2622  
Fax: 502-564-1582*

WRC 1, LLC d/b/a W. Rogers Company  
649 Bizzell DR  
Lexington, KENTUCKY 40510

WRC 1, LLC d/b/a W. Rogers Company  
421 West Main Street  
Frankfort, KENTUCKY 40601