

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SOUTHERN CONTRACTOR OF KY LLC)	
)	
_____)	CASE NO.
)	2021-00081
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

Southern Contractor of KY LLC (Southern Contractor) 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 Southern Contractor 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 Southern Contractor violated the Underground Facility Damage Prevention Act. The Commission further finds that a formal investigation into the excavation damage incident should be conducted.

This proceeding was established on February 23, 2021 with the issuance of an Opening Order. The attempt to perfect service of process for the previously issued Opening Order was unsuccessful. The Opening Order is now being reissued with the intent to perfect service of process on Southern Contractor.

IT IS THEREFORE ORDERED that:

1. Southern Contractor 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 31831 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 Southern Contractor 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

ENTERED
SEP 28 2021 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2021-00081

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00081 DATED SEP 28 2021

EIGHT PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 31831
Incident Date 7/14/2019 6:35:00 AM	Report Submitted 8/1/2019 2:17:00 PM

OPERATOR INFORMATION

Operator Columbia Gas of Kentucky, Inc.	Reported By Tim McKune
Phone (859) 361-0344	Email tmckune@nisource.com
Incident Location South Maysville & Locust St., Mt. Sterling Mt. Sterling, KY 40305	Locate Ticket Number 1906271482
Clarke	

EXCAVATOR INFORMATION

Name of Excavator Gay, Arvin	Organization ID 1036894
Phone 606-260-1838 & 606-401-58	Email arvingay32@yahoo.com
Excavator Address Southern Contractor of KY LLC 1080 High Moore Rd London, KY 40741	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
1906271482	Yes	6/27/19	7/18/19	7/14/19	N/A	Yes

Excavation Summary			
Excavation Within Tolerance Zone	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
Yes	Mechanized	\$1800.00	\$1800.00

The operator reports that Southern Contractor of KY LLC was excavating an area with a locate ticket. Southern Contractor of KY LLC had exposed the properly marked main line, and continued

digging with mechanized equipment within the tolerance zone. While excavating, Southern Contractor of KY LLC dug into a plastic two-inch natural gas main line.

INVESTIGATION

This would be the company's second violation, first incident # 31594.

Previously spoke to Arvin Gay at 606.401.5813 on December 5, 2019.

As of 3/25/20 the \$250 is past due.

March 25, called 606.401.5813, spoke to Arvin Gay. Reminded him that the \$250 was overdue and asked him about this incident. He will review and get back with me.

April 6, 2020

- Called 606.401.5813, the voicemail box is not set up, please try again later.
- Called Jarrod Gay at 606-260-1838, informed him the penalty for 31954 is still unpaid and a hearing will be scheduled, and I needed to talk to Arvin about another incident. He will have Arvin call me tomorrow.

April 16, 2020

- As of today, no phone call from the company.

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.

Gas Excavation Damage Report

Columbia Gas of Kentucky, Inc.

Submitted 8/1/2019 Incident ID 31831

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=31831\)](#)

Reported By:

Name	Tim McKune
Phone	(859) 361-0344
Email	tmckune@nisource.com

Gas Line Incident Occured:

Date	7/14/2019
Time	6:35 AM

Details:

Reported Date	8/1/2019 2:17 PM
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Incident Location Address:

Location	South Maysville & Locust St., Mt. Sterling
Address	South Maysville & Locust St., Mt. Sterling
City	Mt. Sterling
State	KY
County	Clarke
Zip	40305

Confirm Code

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. 1906271483

Excavator Contractor

Excavator Address:

First Name	Arvin
Last Name	Gay
Organization ID	
Company	Southern Contractor of KY LLC
Phone	606-260-1838 & 606-401-58
Email	arvingay32@yahoo.com

Address 1080 High Moore Rd
City London
State KY
Zip 40741
Confirm Code Y
Excavation Damage Failure to maintain clearance

Description of Incident Southern Contractor of KY LLC dug into a plastic two inch natural gas main line with mechanized equipment.

Summary Information

8/1/2019

Full details such as the cause Southern Contractor of KY LLC was excavating an area with a locate ticket. Southern Contractor of KY LLC had exposed the properly marked main line, and continued digging with mechanized equipment within the tolerance zone. While excavating, Southern Contractor of KY LLC dug into 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 \$1,800.00

Steps taken to prevent re-occurrence While making repairs, CKY Leadership spoke with Southern Contractor of KY LLC, and advised them of the KY 811 Dig Law and to always use hand tools while digging within the tolerance zone of marked utilities.

Amount billed to excavator \$1,800.00

Southern Contractor of KY LLC

General Information

Organization Number	1036894
Name	Southern Contractor of KY LLC
Profit or Non-Profit	P - Profit
Company Type	KLC - Kentucky Limited Liability Company
Status	A - Active
Standing	G - Good
State	KY
Country	USA
File Date	10/22/2018 10:41:21 PM
Organization Date	10/22/2018
Last Annual Report	2/19/2020
Principal Office	1080 High Moore Rd London, KY 40741
Managed By	Managers
Registered Agent	Jared Gay 1080 High Moore Rd London, KY 40741

Current Officers

Member	Jared Gay
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Individuals / Entities listed at time of formation

Organizer	Jared Gay
Registered Agent	Jared Gay

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.

Annual Report	2/19/2020	1 page	PDF
Annual Report	8/6/2019	1 page	PDF
Articles of Organization	10/22/2018 10:41:22 PM	1 page	PDF

Assumed Names

Activity History

Filing	File Date	Effective Date	Org. Referenced
Annual report	2/19/2020 11:14:03 AM	2/19/2020 11:14:03 AM	
Annual report	8/6/2019 4:21:31 PM	8/6/2019 4:21:31 PM	
Add	10/22/2018 10:41:21 PM	10/22/2018 10:41:21 PM	

Microfilmed Images

NORMAL NOTICE

Ticket : 1906271482 Date: 06/27/2019 Time: 13:52 Oper: BSHINGLETON Chan:000

State: KY Cnty: MONTGOMERY City: MOUNT STERLING
Subdivision:

Address :

Street : S MAYSVILLE ST

Cross 1 : E MAIN ST

Location: FROM THE INTERSECTION - LOCATE HEADING SOUTH FOR 800 FEET ON BOTH
SIDES OF THE ROAD FROM RIGHT OF WAY TO RIGHT OF WAY

:

Boundary: n 38.056985 s 38.053807 w -83.942735 e -83.940636

Work type : INSTALLING WATER AND SEWER

Done for : MOUNT STERLING WATER AND SEWER

Start date: 07/01/2019 Time: 14:00 Hours notice: 96/48 Priority: NORM

Ug/Oh/Both: U Blasting: NO Emergency: N

Duration : N/A Depth: 10 FEET

Company : SOUTHERN CONTRACTOR OF KENTUCKY Type: CONT

Co addr : 1080 HIGHMOORE RD

City : LONDON State: KY Zip: 40741

Caller : ARVIN GAY Phone: (606)401-5813

Contact : ARVIN GAY - CELL Phone:

Mobile : (606)401-5813

Email : ARVINGAY32@YAHOO.COM

Submitted date: 06/27/2019 Time: 13:52

Members: 0023 0061 0139 0166 0326 2629 WINKY



Matthew G. Bevin
Governor

Charles G. Snavely
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Michael J. Schmitt
Chairman

Robert Cicero
Vice Chairman

Talina R. Mathews
Commissioner

December 6, 2019

Arvin Gay
d/b/a Southern Contractors of Kentucky LLC
1070 Highmoore Road
London, KY 40741

Re: Violation of Kentucky Underground Facility Damage Prevention Act
Incident Number: 3 1 5 9 4

DEMAND FOR PENALTY ASSESSMENT AND REMEDIAL MEASURES

Dear Mr. Gay:

The Kentucky Public Service Commission (Commission) received a report on May 24, 2019, regarding damage to a natural gas or hazardous liquid facility owned and/or operated by the Columbia Gas of Kentucky, Inc. Under the Kentucky Underground Facility Damage Prevention Act (Act), KRS 367.4901 through KRS 367.4917, the Commission has jurisdiction to investigate and assess civil penalties for any violation of the Act that results in excavation damage to underground facilities used to transport gas or hazardous liquid subject to federal pipeline safety laws, 49 U.S.C. secs. 60101 et seq. The Commission regulates the safety of jurisdictional natural gas pipelines in the Commonwealth pursuant to KRS 278.495 and 49 CFR Parts 190, 191, 192 and 195.

Following receipt of the damage notification, Commission Staff (Staff) performed an investigation of the incident and prepared the attached incident report. Based on its investigation of the incident, Staff has determined that Arvin Gay d/b/a Southern Contractors of Kentucky LLC committed the following violation(s) of the Act:

- KRS 367.4911 (6) The excavator shall protect and preserve temporary underground facility markers until the scheduled excavation or demolition is completed.
- 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.

CIVIL PENALTY

KRS 367.4917 provides that a person who commits a violation of the Act shall be subject to a civil penalty not to exceed \$250 for the first violation, \$1,000 for the second violation within one year, and \$3,000 for the third and any subsequent violation. If the violation results in damage to an underground pipeline used to transport gas or hazardous liquid, the violator is subject to an additional civil penalty not to exceed \$1,000 per violation. Based on its investigation of this matter, Staff has determined that you should be assessed a penalty in the total amount of \$1,250, first offense, but that \$1,000 of the penalty should be suspended contingent upon completion of the following remedial measure:

REMEDIAL MEASURE

- You or your representative shall attend a Damage Prevention training course to be held at the offices of the Commission, 211 Sower Blvd. in Frankfort, Kentucky, 40602 on January 6, 2020. The course will begin at 1:00 p.m. and conclude at 3:00 p.m.

If you do not wish to contest the proposed penalty, you should mail or deliver a cashier's check or money order made payable to the "**Kentucky State Treasurer**", within 30 days of the date of this letter, to:

Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602


Please include the Incident Number 31594 on the cashier's check or money order submitted for payment.

Payment of the proposed civil penalty and completion of the remedial measure will satisfy and resolve any and all claims against you for any violation of the Act arising out of the May 9, 2019 incident. Your payment of the proposed civil penalty will not be considered an admission by you that it willfully violated any provision of the Act.

If you do not pay the proposed civil penalty within 30 days of the date of this letter, the Commission will institute an administrative proceeding against you and hold a formal hearing during which you will have an opportunity to present evidence and show cause why it should not be assessed penalties under KRS 367.4917 as a result of the May 9, 2019 incident.

If you have any questions regarding this demand for remedial measures and penalty assessment, please contact John E. Gowins, Division of Inspections at 502-782-2656.

Sincerely,



John S. Lyons
Deputy Executive Director
Kentucky Public Service Commission

Attachment

*Southern Contractor of Kentucky LLC
1080 Highmoore Road
London, KENTUCKY 40741

*Jared Gay
Southern Contractor of Kentucky LLC
1080 Highmoore Road
London, KENTUCKY 40741