

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JRP UTILITY CONSTRUCTION, INC.)	
)	
_____)	CASE NO.
)	2021-00160
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

JRP Utility Construction, Inc. (JRP Utility) 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 JRP Utility 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 JRP Utility 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. JRP Utility 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 32242 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 JRP Utility 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

ENTERED
SEP 29 2021 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2021-00160

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00160 DATED SEP 29 2021

FIFTY-FIVE PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Eric V. Tout Incident Date 10/24/2019 5:41:00 PM	Incident ID 32242 Report Submitted 11/15/2019 3:26:23 PM
--	---

OPERATOR INFORMATION

Operator Columbia Gas of Kentucky, Inc. Phone (859) 361-0344 Incident Location 1432 Pleasant Ridge Dr. Lexington, KY 40509 Fayette	Reported By Tim McKune Email tmckune@nisource.com Locate Ticket Number 1910181543
--	--

EXCAVATOR INFORMATION

Name of Excavator Humbracht, Avery Phone 216-661-2828 Excavator Address JRP Utility Construction, Inc. 7500 Associate Ave Cleveland, OH 44144	Organization ID 71878538 Email none Locate Ticket Number
---	---

INCIDENT

The Operator reports that the Excavator damaged a correctly marked, failed to pothole, half inch gas service line while boring.

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 / Boring	\$1,615.00	\$1,615.00

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
1910181543	For JRP	10/18/19	11/08/19	10/24/19	0	Yes

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

INVESTIGATION

A search of the Ohio Secretary of State web site revealed no company named JRP Utility at 7500 Associate Ave Cleveland, OH 44144. A web search of 7500 Associate Ave. Cleveland, OH 44144 reveled Blue Jay Commutations is located at this address with the above noted telephone number.

A review of LT... 1543 reveled that JRP Utility Construction (South Elgin, IL 60177) was installing conduit for Blue Jay Commutations.

On 07/20/20 the Excavator, JRP Utility Construction President Diane Novak (224-523-1250), stated that the incident location was not marked correctly, but she would need time to research to provide photographs.

On 07/20/20 Project Manager Christian Phillips of JRP Utility Construction (224-523-1341, chris@jrputility.com) stated, via email, that this incident was mismarked and provided two photographs. The photographs are inconclusive, showing no hit kit ruler or damaged pipe.

Mr. Phillips's email is include as Attachment 3.

On 07/21/20 the Operator, Columbia's Ryan Twait provided photographs indicting this incident occurred within the approximant location/"tolerance zone" of 18 inches (See Attachment 3 for Mr. Twait's email).

On 07/21/20 Mr. Phillips stated that the Operator located a retired line, the photographs indicate the retired line was marked and JRP exposed/potholed the retired line. Mr. Phillips stated that the gas service damaged was at a deeper depth and was not located (See Attachment 3 for Mr. Phillips's email).

On 07/22/20 Mr. Twait stated, via email, that two services were marked and the line spotted appears to be a copper water line. Mr. Twait stated that the Field Damage Report Indicates a four inch main was exposed, not the service line, and the Excavator determined he could go 30" deeper than the main to avoid any service. Mr. Twait provided supporting documentation:

- Photographs:
 - Per excavation: Indicating two service lines were marked.
 - Damage: Indicating a yellow plastic gas service line and a metal line. Both the metal and yellow pipes are within the approximant location of 18 inch. The metal line, Per Mr. Twait, is a copper water line.
- Damage Report: Indicating a four-inch main was exposed, not the service line, and the Excavator could go 30" deeper than the main to avoid any service.

Mr. Twait’s email with supporting documentation are included as Attachment 4.

On 07/22/20 Mr. Phillips stated he is researching and will get back in touch.

On 07/29/20 a follow-up email to Mr. Phillips requesting a response by 07/31/20 for the promised report and response to Attachment 4.

On 07/29/20 Mr. Phillips stated, “My former employee was putting his report together for me, I had to track him down. From what he told me, there were 2 gas services and only one service was marked. The pictures I sent in my previous email only showed the one yellow locate. My employees do not blind bore and wouldn't have guessed to go deeper to avoid a service. They did find the one service that was marked, and everything else that was marked. We found all of the other services on this particular job and passed them without incident. Like I mentioned before, I've been doing this for 32 years, I'm also a board member with JULIE in Illinois. Safety is something I don't take shortcuts on. This sounds like it's going to be my foreman's word vs Columbia's word. Columbia won't admit the locating company made a mistake, and my crew found everything that was painted (located). Mr. Phillips also stated in a follow up email, “We also had 27 potholes on that job, for gas services alone, we removed 3 sidewalk panels to find gas services too, at our expense. Please take this is consideration when the people from Columbia say we were at fault”.

The 07/29/20 emails are include in Attachment 5.

On 07/30/20 an email to Mr. Phillips offering the reduced penalty and Damage Prevention Course resulted in Mr. Phillips requesting until 08/03/20 to provided information regarding this incident (See Attachment 5).

On 07/31/20 JULIE 811 Illinois Executive Director Mark Frost (815-741-5010, frost@julie1call.com), stated, via email, that he is not acquainted with Mr. Phillips and Mr. Phillips is not a Board Member of JULIE (Illinois 811), regarding Mr. Phillips statement, “I'm also a board member with JULIE in Illinois”.

Mr. Frost’s email is include as Attachment 6.

On 08/04/20 an email to Mr. Phillips to provide information regarding this incident was sent and as of today’s date no response has been received (See Attachment 5).

On 08/07/20 a Certified Demand Letter imposing the reduced penalty of \$250.00 and the attendance to the Damage Prevention Course will be sent to Ms. Novak and Mr. Phillips due to no response from Mr. Phillips on 08/03/20 and 08/04/20.

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)

Excavator	Last Offence Incident #	Last Offence Incident Date	Last Offence Resolved Date
1 st	N/A	N/A	N/A

Attachment 1

Gas Excavation Damage Report

Columbia Gas of Kentucky, Inc.

Submitted 11/15/2019 Incident ID 32242

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32242\)](#)

Reported By:

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

Gas Line Incident Occured:

Date	10/24/2019
Time	5:41 PM

Details:

Reported Date	11/15/2019 3:26 PM
---------------	--------------------

Incident Location Address:

Location	
Address	1432 Pleasant Ridge Dr
City	Lexington
State	KY
County	Fayette
Zip	40509
Confirm Code	Y

Number of Customers out	1
-------------------------	---

Was gas or hazardous liquids contained in the underground facility?	<input type="checkbox"/>
---	--------------------------

Was gas or hazardous liquids released into the atmosphere?	<input type="checkbox"/>	*
		3/2020

Locate Request Ticket No.	1910181543
---------------------------	------------

Excavator	Contractor
-----------	------------

Excavator Address:

First Name	Avery
Last Name	Humbracht
Organization ID	
Company	JRP Utility
Phone	216-661-2828
Email	none

Address 7500 Associate Ave
City Cleveland
State OH
Zip 44144
Confirm Code Y
Excavation Damage Failure to test-hole(pot hole)

Description of Incident JRP Utility bored into a plastic half inch natural gas service line with mechanized equipment.

Summary Information

11/15/2019

Full details such as the cause JRP Utility was excavating in an area with a locate ticket. JRP Utility was boring with mechanized equipment within the tolerance zone of a properly marked service line. While boring, JRP Utility severed a plastic half inch natural gas service line.

Extent of the damage A plastic half inch service line was severed, and the service line was repaired

Cost of the damage \$1,615.00

Steps taken to prevent re-occurrence While making repairs, CKY advised JRP Utility of the KY 811 Dig Law and the proper methods to pot hole service lines prior to boring within the tolerance zone of a marked facility.

Amount billed to excavator \$1,615.00

Attachment 2

NORMAL NOTICE

Ticket : 1910181543 Date: 10/18/2019 Time: 16:21 Oper: AHESTER Chan:000

State: KY Cnty: FAYETTE City: LEXINGTON
Subdivision:

Address :

Street : PLEASANT RIDGE DR

Cross 1 : WAKEHURST CT

Location: LOCATE A 50 FOOT RADUIUS OF THE SOUTHWEST CORNER OF THE INTERSECTION
:

Boundary: n 38.011729 s 38.010631 w -84.407454 e -84.406066

Work type : INSTALL CONDUIT

Done for : BLUE JAY COMMUNICATIONS

Start date: 10/22/2019 Time: 16:30 Hours notice: 96/48 Priority: NORM

Ug/Oh/Both: U Blasting: NO

Emergency: N

Duration : N/A

Depth: 6 FEET

Company : JRP UTILITY CONSTRUCTION Type: CONT

Co addr :

City : SOUTH ELGIN State: IL Zip: 60177

Caller : JASON BIBBINGS Phone: (224)523-1250

Contact : JASON BIBBINGS - CELL Phone:

Mobile : (779)548-1111

Email : J_BIBBINGS@YAHOO.COM

Submitted date: 10/18/2019 Time: 16:21

Members: 0200 0237 0326 0370 0700 2621 WINKY

Attachment 3

Tout, Eric V (PSC)

From: Christian Phillips <chris@jrputility.com>
Sent: Tuesday, July 21, 2020 1:56 PM
To: Tout, Eric V (PSC)
Subject: Re: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Eric,
So the fact remains the same. The locating company located the old retired in place gas service. That is the service that we exposed prior to passing underneath with the directional drill. The gas service we struck was at a deeper depth and wasn't located, so if we hit a gas service that isn't located how are we in violation of the 18" tolerance rule? If you look at the picture I provided, and look where the original locate is, you'll see a gas service on that yellow mark.

Thanks,
Chris

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Tuesday, July 21, 2020 12:24:15 PM
To: Christian Phillips <chris@jrputility.com>
Subject: RE: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Chris,

I contacted Colombia and they do not know what the measurement from the white mark to the yellow mark is. Colombia did state that the white mark around the yellow mark was placed to make the yellow mark visible in the photograph. If you look at the photographs the yellow mark and damage pylon are inside the 18 inch "zone" indicating to me that this occurred within the approximate location as defined in Kentucky Revised Statute (KRS):

367.4903 Definitions for KRS 367.4903 to 367.4917

(11)"Approximate location," when referring to an underground facility, means:

(a)For underground metallic facilities and underground nonmetallic facilities with metallic tracer wire, a distance not to exceed the combined width of the underground facility plus eighteen (18) inches measured from the outer edge of each side of the underground facility

KRS 367.4909

(6) An operator shall, upon receiving an emergency locate request or a normal excavation locate request:

(a) Inform the excavator of the approximate location and description of any of the operator's facilities that may be damaged or pose a safety concern because of excavation or demolition.

(9) Temporary underground facility markers shall consist of paint, chalk, flags, stakes, or any combination thereof and shall conform to the following standards of the American Public Works Association uniform color code:

- (a) Electric power distribution and transmission Safety Red
- (b) Municipal electric systems Safety Red
- (c) Gas distribution and transmission High visibility safety yellow**
- (d) Oil distribution and transmission High visibility safety yellow
- (e) Dangerous materials, product lines High visibility safety yellow
- (f) Telecommunication systems and cable television Safety alert orange
- (g) Temporary survey markings Safety pink
- (h) Police and fire communications Safety alert orange
- (i) Water systems Safety precaution blue
- (j) Sewer and storm drainage systems Safety green
- (k) Proposed excavation or construction boundaries White
- (l) Reclaimed water, slurry, and irrigation facilities Purple

The above would indicate to me that JRP is in violation of 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.

Unless you have other evidence indicating otherwise the three options offered earlier to resolve this matter are still available.

Thanks,
Eric

From: Christian Phillips <chris@jrputility.com>
Sent: Tuesday, July 21, 2020 10:59 AM
To: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Subject: Re: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

I just saw the pics at the bottom. What's the measurement between the white mark and yellow mark on the pavement?

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Tuesday, July 21, 2020 7:56:17 AM

To: Christian Phillips <chris@jrputility.com>

Subject: FW: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Chris,

Columbia provided the below two photos indicating that this was within the approximate location/ "tolerance zone" of 18 inches (15 inches). Unless you have more compelling photographs please provide, if not:

This being JRP Utility Construction's first offence there are three options to resolve this incident:

1. Pay the reduce penalty of \$250.00 and have a representative of the company attend the Damage Prevention course held in Frankfort at the Commission on the first Monday of each month from 1-3 p.m. (All Courses are postponed until further notice due to the coronavirus.)
2. Pay the full penalty of \$1,250.00.
3. Request a hearing before the Commission.

If you chose option one or two I will draft a letter outlining the details of the exact date of the course and 30 days to make the payment.

If you chose option three I will need something in writing indicating so. You may email, ericv.tout@ky.gov, or mail, 211 Sower Blvd. P.O. Box 615, Frankfort, KY 4060, this information to me.

Respectfully

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

From: rmtwait@nisource.com <rmtwait@nisource.com>

Sent: Tuesday, July 21, 2020 7:45 AM

To: Tout, Eric V (PSC) <ericv.tout@ky.gov>

Subject: Re: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Eric,

This shows it being 15" from damage:





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: "mtwait@nisource.com" <mtwait@nisource.com>,
Date: 07/20/2020 02:01 PM
Subject: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

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 for review.

Ryan,

The Excavator is claiming this is a mismark and provided the below photos. Do you have photos with the hit kit ruler in place. They are clamming the white mark is where the gas service is.

From: Christian Phillips <chris@jrputility.com>
Sent: Monday, July 20, 2020 1:50 PM
To: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Subject: Gas service hit in Kentucky

Hi Eric,

Diane (JRP Utility Construction) asked me to reach out to regarding the gas service hit in Lexington, Kentucky on 10/24/19. I have





attached pictures of the " hit kit " that were taken that evening. One other note, we were there assisting Blue Jay Communications. JRP was under their direction. The white line is the actual location of the gas service.

Please call me if you have any questions.

Thanks,
Chris
224-523-1341

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

Attachment 4

Tout, Eric V (PSC)

From: rmtwait@nisource.com
Sent: Wednesday, July 22, 2020 8:24 AM
To: Tout, Eric V (PSC)
Subject: Re: FW: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Eric,

I pulled the pre-damage pictures to get a better idea of what JRP Utility Construction would have seen prior to boring, and it shows two services that are going across the road:





You can see both locate marks post-damage in the picture below:



As far as an "abandoned" service line that was spotted, this line appears to be a copper water line. Steel does not bend in that manner, and we do not use copper for our service lines:



Also, our field damage report states that the 4" main was exposed, but not the service line, and that they believed that they could go 30" deeper than the main to avoid any services:

DAMAGE HOLE SIZE: 1/2 UNITS: DIAMETER (IN.) AREA (SQ. IN.) HOW LONG DID GAS BLOW? 2 HR: 00 MIN

LINE SIZE: _____ *MATERIAL:
 CI - Cast Iron
 CU - Copper
 OT - Other
 P - Plastic
 PI - Plastic Insert
 S - Steel
 ST - Steel Treated

STABLE SUPPLY PRESSURE: _____ MAOP: _____
BLOWING OPEN: YES NO WAS GAS LOSS RESTRICTED: YES NO
IF YES, HOW: EFV
HOW LONG RESTRICTED: 2 HR: _____ MIN EXCESS FLOW VALVE: YES NO

IF MAIN, DISTANCE TO INTERSECTION OR MAPPABLE FEATURE: _____ FT. IF SERVICE, DISTANCE FROM DAMAGE TO MAIN: _____ FT.
COMMENTS

ADDITIONAL FACTS OR COMMENTS:
Vermeer Navigator D16x20 Series II Boring machine hit 1/2" sk
for 1429 Pleasant Ridge Dr.
Excavator ~~was~~ exposed 4" P-main prior to boring and believed he would
miss facility by boring 30" deeper than gas main.

1st RESPONDER NAME: Baron Lindsay 2nd RESPONDER NAME: Les Stansfeld
Bonk fr

FIELD OPERATIONS LEADER (FOL) ON SITE: YES NO HRS/MINS ON SITE: _____ HR _____ MIN FOL FACTS OR COMMENTS:
Contractor Did Not Spot Services

FIELD OPERATIONS LEADER NAME: Bryan Moran SIGNATURE: BREM

FIELD ENGINEERING ON SITE: YES NO HRS/MINS ON SITE: _____ HR _____ MIN FIELD ENGINEERING FACTS OR COMMENTS:

FIELD ENGINEERING NAME: _____ SIGNATURE: _____

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

AMF: _____
AMAGING PARTY COMMENTS:
Avery Humbrecht went deep with boring head to avoid gas facilities but
mistakenly hit 1/2" sk - 4" Gas main exposed prior to boring

AMF: _____ TITLE: _____

Please let me know if you need any further explanation.

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: 07/22/2020 07:48 AM
Subject: FW: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Ryan,

See email below, this is the first I have been made aware of a second line. Was there a retired line, was it marked instead of the live line and was the Excavator notified of the possibility of two lines? If so provided the documentation. After it being pointed out the photos appear to show the steel (retired) line was marked and a plastic line in close proximity to it, but lower. This was a bore.

Thanks,
Eric

From: Christian Phillips <chris@jrputility.com>
Sent: Tuesday, July 21, 2020 1:56 PM
To: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Subject: Re: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

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- | | | |
|------------|--|--------------------------------------|
| (a) | Electric power distribution and transmission | Safety Red |
| (b) | Municipal electric systems | Safety Red |
| (c) | Gas distribution and transmission | High visibility safety yellow |
| (d) | Oil distribution and transmission | High visibility safety yellow |
| (e) | Dangerous materials, product lines | High visibility safety yellow |
| (f) | Telecommunication systems and cable television | Safety alert orange |

- (g) Temporary survey markings Safety pink
- (h) Police and fire communications Safety alert orange
- (i) Water systems Safety precaution blue
- (j) Sewer and storm drainage systems Safety green
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Thanks,
Eric

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Chris,

Columbia provided the below two photos indicating that this was within the approximate location/ "tolerance zone" of 18 inches (15 inches). Unless you have more compelling photographs please provide, if not:

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Respectfully
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

From: rmtwait@nisource.com <rmtwait@nisource.com>
Sent: Tuesday, July 21, 2020 7:45 AM
To: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Subject: Re: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Eric,

This shows it being 15" from damage:





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: 07/20/2020 02:01 PM
Subject: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

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Ryan,

The Excavator is claiming this is a mismark and provided the below photos. Do you have photos with the hit kit ruler in place. They are clamming the white mark is where the gas service is.

From: Christian Phillips <chris@jrputility.com>
Sent: Monday, July 20, 2020 1:50 PM
To: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Subject: Gas service hit in Kentucky

Hi Eric,

Diane (JRP Utility Construction) asked me to reach out to regarding the gas service hit in Lexington, Kentucky on 10/24/19. I have





attached pictures of the " hit kit " that were taken that evening. One other note, we were there assisting Blue Jay Communications. JRP was under their direction. The white line is the actual location of the gas service.

Please call me if you have any questions.

Thanks,
Chris
224-523-1341

Sent from my Verizon, Samsung Galaxy smartphone
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Attachment 5

Tout, Eric V (PSC)

From: Tout, Eric V (PSC)
Sent: Tuesday, August 4, 2020 1:03 PM
To: Christian Phillips
Subject: FW: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Mr. Phillips,

Do you have the requested information, reports and photographs? If not the below mentioned options are still available.

Thanks,
Eric

From: Tout, Eric V (PSC)
Sent: Friday, July 31, 2020 6:49 AM
To: Christian Phillips <chris@jrputility.com>
Subject: RE: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Sure Monday is fine.

From: Christian Phillips <chris@jrputility.com>
Sent: Thursday, July 30, 2020 4:08 PM
To: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Subject: Re: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Hi Eric,
Please give me until Monday to have a formal report put together.
Thanks,
Chris

Sent from my Verizon, Samsung Galaxy smartphone
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From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Thursday, July 30, 2020 7:58:24 AM
To: Christian Phillips <chris@jrputility.com>
Subject: RE: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Ok, I need the mentioned photographs and a report from JRP to make an informed decision. If not I will have to rely on the information I have at hand. Can you give me an estimated time the requested information will be provided?

Thanks,
Eric

From: Christian Phillips <chris@jrputility.com>
Sent: Thursday, July 30, 2020 8:03 AM
To: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Subject: RE: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Good morning Eric,
Like I mentioned before, why would we have done 27 potholes, remove sidewalks to expose services, then not pothole one service. Do all that work, and then take a shortcut on one service. Doesn't make sense. There was only one service located. The picture I provided only shows one locate mark. There has been no offense by JRP. I'm not going to admit wrong doing, when my team wasn't at fault. Once I receive the pictures from my former employee I will provide them. I would rather spend the \$1250 on the lawyer and prove we were in the right, then pay the fine.

Respectfully,
Chris Phillips

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Thursday, July 30, 2020 6:41 AM
To: Christian Phillips <chris@jrputility.com>
Subject: RE: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Chris,

It is unclear to me if you have evidence, photographs and reports other than what has already been presented, disputing/stronger than what is reported by Columbia?

If you do, please provide and I will consider, but at this point and this being your company's first offence there are three options to resolve this incident:

1. Pay the reduce penalty of \$250.00 and have a representative of the company attend the Damage Prevention course held in Frankfort at the Commission on the first Monday of each month from 1-3 p.m. (Postponed until further notice due to the coronavirus).
2. Pay the full penalty of \$1,250.00.
3. Request a hearing before the Commission. (Must be represented by a KY licensed attorney)

If you chose option one or two I will draft a letter outlining the details of the exact date of the course and 30 days to make the payment.

If you chose option three I will need something in writing indicating so. You may email, ericv.tout@ky.gov, or mail, 211 Sower Blvd. P.O. Box 615, Frankfort, KY 4060, this information to me.

Respectfully,
Eric

From: Christian Phillips <chris@jrputility.com>
Sent: Wednesday, July 29, 2020 12:34 PM
To: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Subject: Fwd: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

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From: Christian Phillips <chris@jrputility.com>
Sent: Wednesday, July 29, 2020, 10:57 AM
To: Christian Phillips
Subject: Re: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Hi Eric,
We also had 27 potholes on that job, for gas services alone, we removed 3 sidewalk panels to find gas services too, at our expense. Please take this is consideration when the people from Columbia say we were at fault.

Thanks,
Chris

Sent from my Verizon, Samsung Galaxy smartphone
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From: Christian Phillips <chris@jrputility.com>
Sent: Wednesday, July 29, 2020 10:29:37 AM
To: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Subject: Re: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Hi Eric,
My former employee was putting his report together for me, i had to track him down. From what he told me, there were 2 gas services and only one service was marked. The pictures I sent in my previous email only showed the one yellow locate. My employees do not blind bore and wouldn't have guessed to go deeper to avoid a service. They did find the one service that was marked, and everything else that was marked. We found all of the other services on this particular job and passed them without incident.
Thanks,
Chris

Eric,
Like I mentioned before, I've been doing this for 32 years, I'm also a board member with JULIE in Illinois. Safety is something I don't take shortcuts on. This sounds like its going to be my foremans word vs Columbia's word. Columbia won't admit the locating company made a mistake, and my crew found everything that was painted(located).

Sent from my Verizon, Samsung Galaxy smartphone
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From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Wednesday, July 29, 2020 8:33:05 AM
To: Christian Phillips <chris@jrputility.com>
Subject: RE: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Chris,

Were you able to obtain the report from the former employee?

Also Columbia stated that two services were marked and the line in the excavation appears to be a copper water line. Columbia also states a four-inch main was exposed, not the service line, and the excavator believed he could go 30" deeper than the main to avoid any service. See their photos and report attached.

Please responded by 07/31/20.

Thanks,

Eric

From: Christian Phillips <chris@jrputility.com>
Sent: Wednesday, July 22, 2020 9:24 AM
To: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Subject: RE: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Good morning Eric!

I will get that report to you asap. I will need to reach out to a former employee at the time of the incident, he was my Construction Manager.

Thanks,
Chris

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Wednesday, July 22, 2020 7:41 AM
To: Christian Phillips <chris@jrputility.com>
Subject: RE: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

This is the first that I have been made aware of a second line, please provided JRP's damage report and supporting documentation regarding this incident.

Thanks,
Eric

From: Christian Phillips <chris@jrputility.com>
Sent: Tuesday, July 21, 2020 1:56 PM
To: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Subject: Re: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Eric,

So the fact remains the same. The locating company located the old retired in place gas service. That is the service that we exposed prior to passing underneath with the directional drill. The gas service we struck was at a deeper depth and wasn't located, so if we hit a gas service that isn't located how are we in violation of the 18" tolerance rule? If you look at the picture I provided, and look were the original locate is, you'll see a gas service on that yellow mark.

Thanks,
Chris

Sent from my Verizon, Samsung Galaxy smartphone
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From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Tuesday, July 21, 2020 12:24:15 PM
To: Christian Phillips <chris@jrputility.com>
Subject: RE: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Chris,

I contacted Colombia and they do not know what the measurement from the white mark to the yellow mark is. Colombia did state that the white mark around the yellow mark was placed to make the yellow mark visible in the photograph. If you look at the photographs the yellow mark and damage pylon are inside the 18 inch "zone" indicating to me that this occurred within the approximate location as defined in Kentucky Revised Statute (KRS):

367.4903 Definitions for KRS 367.4903 to 367.4917

(11)"Approximate location," when referring to an underground facility, means:

(a)For underground metallic facilities and underground nonmetallic facilities with metallic tracer wire, a distance not to exceed the combined width of the underground facility plus eighteen (18) inches measured from the outer edge of each side of the underground facility

KRS 367.4909

(6) An operator shall, upon receiving an emergency locate request or a normal excavation locate request:

(a) Inform the excavator of the approximate location and description of any of the operator's facilities that may be damaged or pose a safety concern because of excavation or demolition.

(9) Temporary underground facility markers shall consist of paint, chalk, flags, stakes, or any combination thereof and shall conform to the following standards of the American Public Works Association uniform color code:

- (a) Electric power distribution and transmission Safety Red
- (b) Municipal electric systems Safety Red
- (c) Gas distribution and transmission High visibility safety yellow**
- (d) Oil distribution and transmission High visibility safety yellow
- (e) Dangerous materials, product lines High visibility safety yellow
- (f) Telecommunication systems and cable television Safety alert orange
- (g) Temporary survey markings Safety pink
- (h) Police and fire communications Safety alert orange
- (i) Water systems Safety precaution blue
- (j) Sewer and storm drainage systems Safety green
- (k) Proposed excavation or construction boundaries White
- (l) Reclaimed water, slurry, and irrigation facilities Purple

The above would indicate to me that JRP is in violation of 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.

Unless you have other evidence indicating otherwise the three options offered earlier to resolve this matter are still available.

Thanks,
Eric

From: Christian Phillips <chris@jrputility.com>
Sent: Tuesday, July 21, 2020 10:59 AM
To: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Subject: Re: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

I just saw the pics at the bottom. What's the measurement between the white mark and yellow mark on the pavement?

Sent from my Verizon, Samsung Galaxy smartphone
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From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Tuesday, July 21, 2020 7:56:17 AM
To: Christian Phillips <chris@jrputility.com>
Subject: FW: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Chris,

Columbia provided the below two photos indicating that this was within the approximate location/ "tolerance zone" of 18 inches (15 inches). Unless you have more compelling photographs please provide, if not:

This being JRP Utility Construction's first offence there are three options to resolve this incident:

1. Pay the reduce penalty of \$250.00 and have a representative of the company attend the Damage Prevention course held in Frankfort at the Commission on the first Monday of each month from 1-3 p.m. (All Courses are postponed until further notice due to the coronavirus.)
2. Pay the full penalty of \$1,250.00.
3. Request a hearing before the Commission.

If you chose option one or two I will draft a letter outlining the details of the exact date of the course and 30 days to make the payment.

If you chose option three I will need something in writing indicating so. You may email, ericv.tout@ky.gov, or mail, 211 Sower Blvd. P.O. Box 615, Frankfort, KY 4060, this information to me.

Respectfully
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

From: rmtwait@nisource.com <rmtwait@nisource.com>

Sent: Tuesday, July 21, 2020 7:45 AM

To: Tout, Eric V (PSC) <ericv.tout@ky.gov>

Subject: Re: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

Eric,

This shows it being 15" from damage:





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: "mtwait@nisource.com" <mtwait@nisource.com>,
Date: 07/20/2020 02:01 PM
Subject: 32242, 10/24/2019, 1432 Pleasant Ridge Dr. Lex., JRP Utility Construction, Inc.

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Ryan,

The Excavator is claiming this is a mismatch and provided the below photos. Do you have photos with the hit kit ruler in place. They are claiming the white mark is where the gas service is.

From: Christian Phillips <chris@jrputility.com>
Sent: Monday, July 20, 2020 1:50 PM
To: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Subject: Gas service hit in Kentucky

Hi Eric,
Diane (JRP Utility Construction) asked me to reach out to regarding the gas service hit in Lexington, Kentucky on 10/24/19. I have





attached pictures of the " hit kit " that were taken that evening. One other note, we were there assisting Blue Jay Communications. JRP was under their direction. The white line is the actual location of the gas service.

Please call me if you have any questions.

Thanks,
Chris
224-523-1341

Sent from my Verizon, Samsung Galaxy smartphone
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Attachment 6

Tout, Eric V (PSC)

From: Mark Frost <frost@julie1call.com>
Sent: Friday, July 31, 2020 12:34 PM
To: Tout, Eric V (PSC)
Subject: Re: Board Member

Hello Mr. Tout,

No, I have never heard of Mr. Phillips and he is not a member of the JULIE, Inc. (Illinois One Call System) Board of Directors.

Thank you for your inquiry.

Mark Frost
Executive Director

On Fri, Jul 31, 2020 at 7:05 AM Tout, Eric V (PSC) <ericv.tout@ky.gov> wrote:

Mr. Frost,

I recently was in contact with Project Manager Christian Phillips of JRP Utility Construction regarding a strike occurring in Kentucky and Mr. Phillips stated "I'm also a board member with JULIE in Illinois". I was looking at the JULIE web site and did not see Mr. Phillips listed as a Board Member, is Mr. Phillips's statement correct?

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



Mark A. Frost, Executive Director

JULIE, Inc. (Illinois One-Call System)
3275 Executive Drive Joliet, IL 60431

(O): 815-741-5010 (E): frost@julie1call.com

  @JULIE1call (W): illinois1call.com

Richard J. Miller
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*Diane Novak
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South Elgin, ILLINOIS 60177