

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DANIEL CLYMER)	
)	
_____)	CASE NO.
)	2021-00161
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

Daniel Clymer (Mr. Clymer) 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. Clymer for violation of the following provision of the Act:

KRS 367.4911(1)(b) – An excavator may commence work before the two (2) full working days provided for in paragraph (a) of this subsection have elapsed if all affected operators have notified the person that the location of all the affected operators' facilities have been marked or that they have no facilities in the area of the proposed excavation, demolitions, or timber harvesting.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds prima facie evidence that Mr. Clymer 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 April 12, 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 Mr. Clymer.

IT IS THEREFORE ORDERED that:

1. Mr. Clymer 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 32234 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 Mr. Clymer 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:


Executive Director

Case No. 2021-00161

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00161 DATED SEP 29 2021

NINE PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Eric V. Tout Incident Date 10/24/2019 3:00:00 PM	Incident ID 32234 Report Submitted 11/12/2019 3:08:37 PM
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OPERATOR INFORMATION

Operator Carrollton Utilities Phone 502-732-1218 Incident Location 38.681690, -85.176152 701 Highland Ave Carrollton, KY 41008 Carroll	Reported By Kaleb Nab Email knab@cuky.us Locate Ticket Number 1910231674
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EXCAVATOR INFORMATION

Name of Excavator Clymer, Daniel Phone 502-655-0638 Excavator Address 701 Highland Ave Carrollton, KY 41008	Organization ID Email Locate Ticket Number
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INCIDENT

The Operator reports that the Excavator/Homeowner damaged a ¾ inch steel gas service pipe coating, bent pipe, with mechanized equipment. No release of gas occurred. More specifically the Operator was responding to a locate request when it was discovered excavation occurred prior to the locate request. The Operator indicates that the homeowner/excavator was not present and he was unable to make contact at the time of the event. **The Damage Report is include as Attachment 1.**

Excavation Summary

Excavation Within 18" <small>(Approximate Location)</small>	Type Of Equipment Used	Cost of Damage <small>(Per Operator)</small>	Amount Billed <small>(Excavator)</small>
No call to 811	Mechanized / Not specified	\$350.00	\$350.00

Locate Ticket (LT) Summary

Ticket #	Valid	Initial Date	Expiration Date <small>(21 calendar days from Initial date)</small>	Incident Date	# of Days Expired	Within Scope of Excavation
1910231674	Did not wait 2 working days	10/23/19	N/A	10/24/19	0	Yes

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

INVESTIGATION

On 07/22/20 the Operator, Carrollton Utilities' Kaleb Nab (502-525-9064), provided a paid invoice from the Excavator. **The invoice is included as Attachment 3.**

On 07/23/20 Mr. Nab stated that gas was in the line at the time of the damage.

On 07/23/20 the Excavator/Homeowner, Daniel Clymer, stated that he did not wait the two working days before excavating. Mr. Clymer was receptive to attending the Damage Prevention Course and paying the reduced penalty of \$100.00.

VIOLATION KRS 367.4911

- (1) (b) An excavator may commence work before the two (2) full working days provided for in paragraph (a) of this subsection have e if all affected operators have notified the person that the location of all the affected operators' facilities have been marked or th have no facilities in the area of the proposed excavation, demolition, or timber harvesting.

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

Carrollton Utilities

Submitted 2/7/2020 Incident ID 32234

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32234\)](#)

Reported By:

Name	Kaleb Nab
Phone	502-732-1218
Email	knab@cuky.us

Gas Line Incident Occured:

Date	10/24/2019
Time	3:00 PM

Details:

Reported Date	11/12/2019 3:08 PM
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Incident Location Address:

Location	38.681690, -85.176152
Address	701 Highland Ave
City	Carrollton
State	KY
County	Carroll
Zip	41008
Confirm Code	Y

Number of Customers out	0
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Was gas or hazardous liquids contained in the underground facility?	<input type="checkbox"/>
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Was gas or hazardous liquids released into the atmosphere?	<input type="checkbox"/>	*
		3/2020

Locate Request Ticket No.	1910231674
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Excavator	Home Owner
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Excavator Address:

First Name	Daniel
Last Name	Clymer
Phone	502-655-0638
Email	
Address	701 Highland Ave
City	Carrollton

State KY
Zip 41008
Confirm Code Y
Excavation Damage One Call notification practices not sufficient

Description of Incident At 3:00 PM on Thursday Oct. 24th, a Carrollton Utilities Service Man responded to a One Call ticket that was called in at 4:00 PM Wednesday Oct 23rd. The service man came to the area indicated the work would be done and found that excavation work had already been done. No one was in the area and there was no longer any excavation equipment. The service man found a hole approximately 4ft deep with 5 ft of a 3/4" steel natural gas service line exposed. The service man then checked the area for leaking gas with a GMI and found there to be no leaks. He found that there was some damage to the coating of the pipe and that the pipe had been bent in two areas from a machine pulling on it. The service man called the General Manager of Carrollton Utilities and briefed him about the damage. The service man took pictures of the site and then proceeded to apply mastic to the pipe where the coating had been damaged. He then locate the line in the areas needed per the ticket and left the scene. The homeowner/excavator were never present and were not able to be contacted at the time of the event.

Summary Information

2/7/2020

Full details such as the cause The homeowner failed to give Carrollton Utilities 48 hours to locate the gas lines in the area of construction. For more details see "Description of Incident"
Extent of the damage Pipe coating was damaged as well as the pipe was bent in two places.
Cost of the damage \$100.00
Steps taken to prevent re-occurrence Customer was billed \$100 for repairs and \$300 for the serviceman's time.
Amount billed to excavator \$400.00

Attachment 2

NORMAL NOTICE

Ticket : 1910231674 Date: 10/23/2019 Time: 16:04 Oper: KUPIANONYMOUS Chan:000

State: KY Cnty: CARROLL City: CARROLLTON
Subdivision:

Address : 701
Street : HIGHLAND AVE
Location: NORTH SIDE OF LOT
:

Boundary: n 38.682137 s 38.680793 w -85.177078 e -85.172062

Work type : BASEMENT ACCESS
Done for : DANIEL CLYMER
Start date: 10/25/2019 Time: 16:30 Hours notice: 48/48 Priority: NORM
Ug/Oh/Both: U Blasting: NO Emergency: N
Duration : N/A Depth: 3 FT

Company : DANIEL CLYMER Type: HOME
Co addr : 701 HIGHLAND AVE
City : CARROLLTON State: KY Zip: 41008
Caller : DANIEL CLYMER Phone: (502)655-0638
Contact : DANIEL Phone:
Mobile : (502)655-0638
Email : CARROLLTONSHEETMETAL@YAHOO.COM

Submitted date: 10/23/2019 Time: 16:04
Members: 0030 0139 WINKY

Attachment 3

INVOICE

Carrollton Utilities

P O Box 269
 Carrollton, KY 41008
 (502) 732-7055 fax (502) 732-7058
www.carrolltonutilities.com

INVOICE NO. GAS LINE REPAIR
 DATE October 30, 2019
 ACCOUNT # 200180.0081

TO Heather Clymer
 701 Highland Ave
 Carrollton, KY 41008

PAID
 NOV 15 2019
 CARROLLTON UTILITIES

DATE COMPLETED	JOB	PAYMENT TERMS	DUE DATE
10/24/2019	701 Highland Ave	DUE UPON RECEIPT	

QUANTITY	DESCRIPTION	UNIT PRICE	LINE TOTAL
1.00	GAS LINE REPAIR	\$ 350.00	\$ 350.00
			\$ -
	SUBTOTAL	\$	350.00
	SALES TAX		
	TOTAL	\$	350.00

Make all checks payable to:
 CARROLLTON UTILITIES

Account Information	
28228 200430.00 84 CITY OF HEATHER 704 HIGHLAND AVENUE CARROLLTON, KY	Status: ACTIVE Activity Start: 04/09/2018 Cut-Off:
Balance: \$66.92 Due Date: 07/24/2020 Budget BR Date: Cycle: 02 Rev-Class: R Deposits: \$165.00	Services GS SW TC WA Trans From: Trans To:

Type	Date	Code	Reading	Meter No	Description	Amount	Ref	Usage	Total
ADJUST	10/29/2019	GR			Gas Line Rpt/Mn	\$350.00	4835		\$417.37
READING	10/21/2019	GS	4841.0000	147039	CITY READ		2727		\$417.37
PAYMENT	10/21/2019	WA	1748.0000	67558884	CITY READ		2727		\$351.37
BILLING	11/01/2019			6556	OLBP HC	\$56.00	13555		\$351.37
BILLING	11/07/2019	TI			Rate Code:	\$0.80			\$351.37
BILLING	11/07/2019	WA		67558884	Rate Code: RA1	\$20.16		24	\$372.13
BILLING	11/07/2019	SW		67558884	Rate Code: R01	\$18.32		24	\$390.45
BILLING	11/07/2019	TI			Rate Code:	\$0.46			\$390.91
BILLING	11/07/2019	GS		147039	Rate Code: RA1	\$15.19		23	\$406.10
BILLING	11/07/2019	TC			Rate Code: 01	\$15.42			\$421.52
PAYMENT	11/15/2019				OLBP ACH	\$421.52	13646		\$0.00
READING	11/19/2019	GS	5072.0000	147039	CITY READ		2778		\$0.00
READING	11/19/2019	WA	1780.0000	67558884	CITY READ		2778		\$0.00
BILLING	12/06/2019	TI			Rate Code:	\$0.71			\$0.71

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Daniel Clymer
701 Highland Ave
Carrollton, KENTUCKY 41008

*Daniel Clymer
915 Polk Street
Carrollton, KENTUCKY 41008