

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

L & N UTILITIES LLC)	
)	
_____)	CASE NO.
)	2021-00267
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

L & N Utilities LLC (L & N) 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 L & N 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 L & N 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. L & N 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.

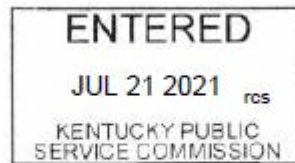
2. **Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.**

3. The Staff Incident Report 42777 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 L & N 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



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00267 DATED JUL 21 2021

THIRTEEN PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Eric V. Tout Incident Date 6/16/2020 10:17:00 AM	Incident ID 42777 Report Submitted 7/10/2020 10:31:10 AM	Key 7297
--	---	-----------------

OPERATOR INFORMATION

Operator Louisville Gas and Electric Company Phone (502) 364-8281 Incident Location 1000 Samuel St Louisville, KY 40204 Jefferson	Reported By Mike Jones Email Mike.Jones@lge-KU.com Locate Ticket Number 2006040655
---	---

EXCAVATOR INFORMATION

Name of Excavator Legett, Matthew Phone 712-305-5818 Excavator Address L and N Utilities, LLC 4162 W County Road 250 S Holton, IN 47023	Organization ID 1121465 Email Locate Ticket Number
---	---

INCIDENT

The Operator reports that the Excavator damaged an accurately marked 1/2" gas service boring in conduit. The Operator stated that the excavator potholed, did not pothole the exact path of the bore and the service turned 90 degrees down resulting in the damage.

The Damage Report (DR) is include as Attachment 1.

DR Summary

Excavation Within 18" (Approximate Location)	Type Of Equipment Used	Cost of Damage	Amount Billed
Yes	Mechanized / Bore	\$659.00	\$0.00

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
2006040655	Yes	06/04/20	06/25/20	06/16/20	0	Yes

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

INVESTIGATION

On 02/25/20 an attempt to contact the Excavator at 712-305-5818 resulted in a message stating no voice mail is set up. An attempt to contact the Excavator resulted in a message stating you have reached 580-919-0905 (per LT...0655 Shane Helton's #) resulted in a message being left.

On 03/01/21 an attempt to call 580-919-0905 resulted in Shane Melton stating research was needed and he would call back on 03/02/21.

On 03/04/21 Mr. Melton stated he is out of town and was unable to do the research and requested a call on 03/08/21.

On 03/10/21 Mr. Melton stated that L&N Utilities is guilty of operating mechanized equipment within the approximate location/"tolerance zone" of 18 inches and is aware the penalty imposed is \$4,000.00.

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
3 rd or Subsequent	32413	01/18/20	10/15/20

Attachment 1

Gas Excavation Damage Report

Louisville Gas and Electric Company

Submitted 7/10/2020 Incident ID: 42777

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=42777\)](#)

Reported By:

Name: Mike Jones
Phone: (502) 364-8281
Email: Mike.Jones@lge-KU.com

Gas Line Incident Occured:

Date: 6/16/2020
Time: 10:17 AM

Details:

Reported Date: 7/10/2020 10:27 AM

Incident Location Address:

Location:
Address: 1000 Samuel St
City: Louisville
State: KY
County: Jefferson
Zip: 40204
Confirm Code: Y

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.: 2006040655

Excavator: Utility

Excavator Address:

First Name: Matthew
Last Name: Legett
Organization ID:
Company: L&N Utilities
Phone: 712-305-5818
Email:

Address: 4162 W County Road 250 S
City: Holton
State: IN
Zip: 47023
Confirm Code: Y
Excavation Damage: Failure to use hand tools where required

Description of Incident Excavator bored through service.

Summary Information

7/10/2020

Full details such as the cause	Excavator damaged accurately marked 1/2" plastic customer service boring in conduit. Contractor potholed the service on the company side right in front of the stop box then bored inches behind the stop box damaging the customer service. The customer side took a hard 90 straight down where contractor struck it with bore.
Extent of the damage	1/2" plastic service
Cost of the damage	\$659.00
Steps taken to prevent re-occurrence	I advised contractors to pothole exactly where they are going to cross buried facilities.
Amount billed to excavator	\$0.00

Attachment 2

NORMAL NOTICE REMARK

Ticket : 2006040655 Date: 06/04/2020 Time: 09:41 Oper: AHESTER Chan:000
Old Tkt: 2005190347 Date: 05/19/2020 Time: 08:56 Oper: KREED Rev: 00A

State: KY Cnty: JEFFERSON City: LOUISVILLE
Subdivision:

Address :

Street : KRIEGER ST

Cross 1 : GOSS AVE

Location: FROM THE INTERSECTION - LOCATE HEADING NORTH FOR APPROX 850 FEET ON
THE EAST SIDE OF THE ROAD ENDING AT CHARLES ST

:

Boundary: n 38.230591 s 38.227784 w -85.737906 e -85.734831

Work type : INSTALLING CONDUIT FOR FIBER OPTICS

Done for : VERIZON

Start date: 06/08/2020 Time: 10:00 Hours notice: 96/48 Priority: NORM

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

Duration : N/A Depth: 5 FEET

Company : L AND N UTILITIES LLC Type: CONT

Co addr : 4162 W CO RT 250 S

City : HOLTON State: IN Zip: 47023

Caller : SHANE MELTON Phone: (580)919-0905

Contact : SHANE MELTON - CELL Phone:

Mobile : (580)919-0905

Email : LANDNUTILITIES@GMAIL.COM

Submitted date: 06/04/2020 Time: 09:41

Members: 0002 0004 0006 0054 0139 0721

SUPPLEMENTAL PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Eric V. Tout Incident Date 6/16/2020 10:17:00 AM	Incident ID 42777 Report Submitted 7/10/2020 10:31:10 AM	Key 7297
--	---	-----------------

OPERATOR INFORMATION

Operator Louisville Gas and Electric Company (LG&E) Phone (502) 364-8281 Incident Location 1000 Samuel St Louisville, KY 40204 Jefferson	Reported By Mike Jones Email Mike.Jones@lge-KU.com Locate Ticket Number 2006040655
--	---

EXCAVATOR INFORMATION

Name of Excavator Legett, Matthew Phone 712-305-5818 Excavator Address L and N Utilities, LLC 4162 W County Road 250 S Holton, IN 47023	Organization ID 1121465 Email Locate Ticket Number
---	---

SUPPLEMENTAL REPORT

On 03/10/21 the Operator, LG&E's Mike Jones, provided photographs of the incident location indicating the damage occurred within the approximant location tolerance zone of 18 inches.

The Photographs are included in Attachment 3.

Attachment 3

Tout, Eric V (PSC)

From: Jones, Mike (Auburndale) <Mike.Jones@lge-ku.com>
Sent: Wednesday, March 10, 2021 12:38 PM
To: Tout, Eric V (PSC)
Subject: RE: 42777, 6/16/2020, 1000 Samuel St Louisville, L and N Utilities
Attachments: DigTix Incident INC-20200616-003 2020-06-16 12_56_21.306.jpg; DigTix Incident INC-20200616-003 2020-06-16 12_56_34.829.jpg; DigTix Incident INC-20200616-003 2020-06-16 12_56_39.996.jpg

Eric,

In these photos, it's easy to see the service was marked correctly. The marks in the white circles are from the original locate and the damage is under the marker. It looks like the marks are spot on.

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Thursday, March 04, 2021 10:31 AM
To: Jones, Mike (Auburndale) <Mike.Jones@lge-ku.com>
Subject: 42777, 6/16/2020, 1000 Samuel St Louisville, L and N Utilities

EXTERNAL email. STOP and THINK before responding, clicking on links, or opening attachments.

Hello Mike,

The excavator is not confirming or denying this was in the T-zone. So if you can provide supporting documentation that this was in the t-zone.

*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*

----- The information contained in this transmission is intended only for the person or entity to which it is directly addressed or copied. It may contain material of confidential and/or private nature. Any review, retransmission, dissemination or other use of, or

taking of any action in reliance upon, this information by persons or entities other than the intended recipient is not allowed. If you received this message and the information contained therein by error, please contact the sender and delete the material from your/any storage medium.





2020-06-16 12:38:34

D
A
M
A
G
E
↓



*L & N Utilities LLC
4162 W County Road 250 S
Holton, INDIANA 48203

*L & N Utilities LLC-Northwest Registered Agent
212 N 2nd St, Ste 100
Richmond, KENTUCKY 40475