

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NICHOLS CONTRACTING LLC)	
_____)	
ALLEGED VIOLATION OF UNDERGROUND)	CASE NO.
FACILITY DAMAGE PREVENTION ACT)	2021-00268
)	
)	

NOTICE OF FILING

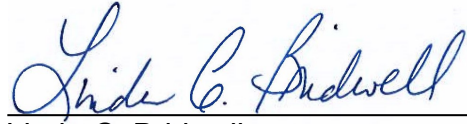
Notice is given to all parties that the following materials have been filed into the record of this proceeding:

- The digital video recording of the evidentiary hearing conducted on August 19, 2021 in this proceeding;
- Certification of the accuracy and correctness of the digital video recording;
- All exhibits introduced at the evidentiary hearing conducted on August 19, 2021 in this proceeding;
- A written log listing, inter alia, the date and time of where each witness' testimony begins and ends on the digital video recording of the evidentiary hearing conducted on August 19, 2021.

A copy of this Notice, the certification of the digital video record, and hearing log have been served upon all persons listed at the end of this Notice. Parties desiring to view the digital video recording of the hearing may do so at https://youtu.be/IJ5aEJ_UhjY.

Parties wishing an annotated digital video recording may submit a written request by electronic mail to pscfilings@ky.gov. A minimal fee will be assessed for a copy of this recording.

Done at Frankfort, Kentucky, this 15th day of September 2021.

A handwritten signature in blue ink that reads "Linda C. Bridwell". The signature is written in a cursive style with a horizontal line underneath it.

Linda C. Bridwell
Executive Director
Public Service Commission of Kentucky

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

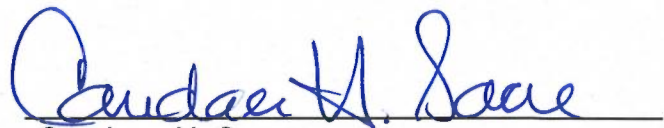
NICHOLS CONTRACTING, LLC –)	
)	CASE NO.
ALLEGED VIOLATION OF UNDERGROUND)	2021-00268
FACILITY DAMAGE PREVENTION ACT)	

CERTIFICATION

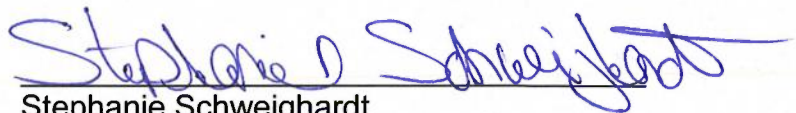
I, Candace H. Sacre, hereby certify that:

1. The attached flash drive contains a digital recording of the Formal Hearing conducted in the above-styled proceeding on August 19, 2021. The Formal Hearing Log, Exhibit List, and Exhibits are included with the recording on August 19, 2021;
2. I am responsible for the preparation of the digital recording;
3. The digital recording accurately and correctly depicts the Formal Hearing of August 19, 2021; and
4. The Formal Hearing Log attached to this Certificate accurately and correctly states the events that occurred at the Formal Hearing of August 19, 2021, and the time at which each occurred.

Signed this 7th day of September, 2021.



Candace H. Sacre
Administrative Specialist III



Stephanie Schweighardt
Notary Public State at Large
Commission Expires: January 14, 2023
ID#: 614400



Date:	Type:	Location:	Department:
8/19/2021	Public Hearing\Public Comments	Hearing Room 1	Hearing Room 1 (HR 1)

Witness: John Gowins
 Judge: Kent Chandler; Amy Cubbage
 Clerk: Candace Sacre

Event Time	Log Event	
11:06:02 AM	Session Started	
11:06:06 AM	Chairman Chandler Note: Sacre, Candace	On record, this is the Kentucky Public Service Commission. My name is Kent Chandler, Chairman of the Public Service Commission. Joining me today is Commission Vice Chair Amy Cubbage.
11:06:25 AM	Chairman Chandler Note: Sacre, Candace	Today's hearings are for the purpose of hearing evidence in cases where the investigation division of the Kentucky Public Service Commission has issued civil penalty assessments against individuals and business entities alleging violations of the Kentucky Underground Facility Damage Prevention Act.
11:06:40 AM	Chairman Chandler Note: Sacre, Candace	Third set of hearings today on Commission acting under authorization under KRS 367.4917(6) to enforce and assess civil penalties provided in the Act and to seek injunctive relief for any violation that results in damage to an underground facility used to transport gas or hazardous liquids subject to federal pipeline safety laws 49 USC 60101, et seq.
11:07:17 AM	Chairman Chandler Note: Sacre, Candace	Call next case, Case No. 2021-00268, Nichols Contracting, LLC, Incident Number 32452, alleged to have violated the Act, specifically KRS 367.4911(1)(a), reading, (click on link for further comments).
11:08:05 AM	Chairman Chandler Note: Sacre, Candace	Appearing for DOI, ready to proceed?
11:08:13 AM	Staff Atty Park PSC Note: Sacre, Candace	I am.
11:08:16 AM	Chairman Chandler Note: Sacre, Candace	First witness?
11:08:20 AM	Staff Atty Park PSC Note: Sacre, Candace	John Gowins.
11:08:24 AM	Chairman Chandler Note: Sacre, Candace	Witness is sworn.
11:08:26 AM	Chairman Chandler - witness Gowins Note: Sacre, Candace	Examination. Name and address?
11:08:44 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Direct Examination. Current occupation?
11:08:54 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Investigate incident of damage occurred Feb 19 2020 at Williams Road and KY 39, Nicholasville, Kentucky?
11:09:13 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Incident number?

11:09:21 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	On screen, Investigation Report, Incident Number 32452, review document, identify this document?
11:09:48 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	True and accurate copy?
11:09:58 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Describe incident?
11:10:10 AM	DOI STAFF EXHIBIT 1 Note: Sacre, Candace	STAFF ATTY PARK PSC - WITNESS GOWINS
	Note: Sacre, Candace	INCIDENT 32452 PIPELINE DAMAGE INVESTIGATION REPORT
11:10:26 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	No locate request?
11:10:39 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Gas in pipeline?
11:10:46 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Release of gas?
11:10:50 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	No valid ticket Nichols, another issued?
11:11:24 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Not take advantage of that?
11:11:32 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Excavator violated Act?
11:11:41 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Which provision violated?
11:12:02 AM	Chairman Chandler Note: Sacre, Candace	Questions?
11:12:03 AM	Vice Chairwoman Cabbage Note: Sacre, Candace	No questions.
11:12:07 AM	Chairman Chandler - witness Gowins Note: Sacre, Candace	Examination. Nichols' Contracting, LLC, or entity/person other violation?
11:12:26 AM	Chairman Chandler Note: Sacre, Candace	Redirect?
11:12:30 AM	Chairman Chandler Note: Sacre, Candace	Additional comments, post-hearing brief?
11:12:36 AM	Chairman Chandler Note: Sacre, Candace	Submit case on record?
11:12:42 AM	Chairman Chandler Note: Sacre, Candace	End hearing.
11:13:01 AM	Chairman Chandler Note: Sacre, Candace	Call next case, 2021-00269, Incident Number 32502, Boss Construction, LLC, alleged violated Act, specifically KRS 367.4911(8), reading, (click on link for further comments).
11:13:41 AM	Chairman Chandler Note: Sacre, Candace	Ready to proceed?
11:13:48 AM	Staff Atty Park PSC Note: Sacre, Candace	Yes.
11:13:50 AM	Chairman Chandler Note: Sacre, Candace	First witness?
11:13:54 AM	Staff Atty Park PSC Note: Sacre, Candace	John Gowins.
11:13:58 AM	Chairman Chandler Note: Sacre, Candace	Witness is sworn.

11:14:07 AM	Chairman Chandler - witness Gowins Note: Sacre, Candace	Examination. Previously stated name and address?
11:14:14 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Direct Examination. Current occupation?
11:14:23 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Job duties?
11:14:51 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Investigate two incidents of damage occurred March 3 2020 at 720 Roberts Street, Newport, Kentucky?
11:15:07 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Concerns one incident, first incident, assigned Incident Number 32502, bring up Investigation Report, identify document?
11:15:49 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	True and accurate copy?
11:15:54 AM	Staff Atty Park PSC Note: Sacre, Candace	Filed into record, move admitted DOI Exhibit 1.
11:16:05 AM	Chairman Chandler Note: Sacre, Candace	Marked as such.
11:16:06 AM	DOI STAFF EXHIBIT 1 Note: Sacre, Candace	INCIDENT 32502 PIPELINE DAMAGE INVESTIGATION REPORT
	Note: Sacre, Candace	STAFF ATTY PARK PSC - WITNESS GOWINS
11:16:09 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Describe incident and investigation?
11:16:33 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Excavation covered by valid locate ticket?
11:16:54 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Gas in pipeline?
11:17:00 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Gas released?
11:17:05 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Excavator violated Act?
11:17:15 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Which provision violated?
11:17:35 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Incident first alleged violation?
11:17:51 AM	Chairman Chandler Note: Sacre, Candace	Vice Chair?
11:17:52 AM	Vice Chairman Chandler Note: Sacre, Candace	No questions?
11:17:56 AM	Chairman Chandler - witness Gowins Note: Sacre, Candace	Examination. Damage resulted caused by use of mechanical equipment of excavator?
11:18:24 AM	Chairman Chandler - witness Gowins Note: Sacre, Candace	Walk me through that, about proximate cause of damage was excavator, fact pattern caused rock fall on line?
11:18:39 AM	Chairman Chandler Note: Sacre, Candace	Additional redirect?
11:19:42 AM	Chairman Chandler Note: Sacre, Candace	Additional statements or brief?
11:19:51 AM	Chairman Chandler Note: Sacre, Candace	Submit case on record?

11:20:04 AM	Chairman Chandler Note: Sacre, Candace	Last case 2021-00270, Boss Construction, LLC, Incident Number 32503, alleged to have violated Underground Facility Damage Prevention Act, specifically, two provisions, first, KRS 367.4911(7), reading, (click on link for further comments), and, KRS 367.4911(8), reading, (click on link for further comments).
11:21:07 AM	Chairman Chandler Note: Sacre, Candace	No one appeared, DOI ready to proceed?
11:21:10 AM	Staff Atty Park PSC Note: Sacre, Candace	Yes.
11:21:15 AM	Chairman Chandler Note: Sacre, Candace	First witness?
11:21:19 AM	Staff Atty Park PSC Note: Sacre, Candace	John Gowins.
11:21:24 AM	Chairman Chandler Note: Sacre, Candace	Witness is sworn.
11:21:32 AM	Chairman Chandler Note: Sacre, Candace	Examination. Previously stated name and address?
11:21:39 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Direct Examination. Current occupation?
11:21:47 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Investigate two incidents of damage on March 4 2020 at 720 Roberts Street, Newport, Kentucky?
11:22:06 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Incident assigned number?
11:22:16 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Display Investigation Report for Incident Number 32503, review, identify document?
11:22:38 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	True and accurate copy?
11:22:43 AM	Staff Atty Park PSC Note: Sacre, Candace	Entered into record, move to introduce.
11:22:58 AM	Chairman Chandler Note: Sacre, Candace	So ordered.
11:22:59 AM	DOI STAFF EXHIBIT 1 Note: Sacre, Candace Note: Sacre, Candace	INCIDENT 32503 PIPELINE DAMAGE INVESTIGATION REPORT STAFF ATTY PARK PSC - WITNESS GOWINS
11:23:02 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Describe incident?
11:23:27 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Valid locate ticket?
11:23:44 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Excavator violated Act?
11:23:51 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Which provisions?
11:24:42 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Prior excavation damage revealed existence of line, and excavator should have notified operator?
11:24:57 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Pipeline contain gas?
11:25:03 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Gas released?
11:25:09 AM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Second violation of excavator within year?

11:25:25 AM	Chairman Chandler Note: Sacre, Candace	Vice Chair?
11:25:31 AM	Vice Chairwoman Cubbage - witness Gowins Note: Sacre, Candace	Examination. Previous matter with rock, 2021-00269, report from PRG shows damage but appears not any similar documentation, understanding right, only documentation call from Duke?
11:26:19 AM	Vice Chairwoman Cubbage - witness Gowins Note: Sacre, Candace	Consider two incidents, not just were on two days, different breaks in line?
11:26:35 AM	Chairman Chandler - witness Gowins Note: Sacre, Candace	Examination. Rocks fell two subsequent days?
11:26:53 AM	Chairman Chandler - witness Gowins Note: Sacre, Candace	What came into contact with line?
11:27:19 AM	Chairman Chandler - witness Gowins Note: Sacre, Candace	Operator reports, reading, (click on link for further comments), for investigation majority notes identical to first document?
11:28:02 AM	Chairman Chandler - witness Gowins Note: Sacre, Candace	Phone call on November 6, remember second contact coming into conversation or just first conversation regarding rock?
11:28:29 AM	Chairman Chandler - witness Gowins Note: Sacre, Candace	Final entry conversations, reading, (click on link for further comments), identical to other investigation?
11:28:48 AM	Chairman Chandler - witness Gowins Note: Sacre, Candace	First incident March 3, this incident occurred on March 4?
11:28:54 AM	Chairman Chandler - witness Gowins Note: Sacre, Candace	58 days after ticket expired?
11:29:10 AM	Chairman Chandler - witness Gowins Note: Sacre, Candace	Understanding is obligation excavator cease excavation come into comment damaged underground facility?
11:29:29 AM	Chairman Chandler - witness Gowins Note: Sacre, Candace	Not in violations here?
11:29:37 AM	Chairman Chandler - witness Gowins Note: Sacre, Candace	After damage, did continue?
11:29:46 AM	Chairman Chandler Note: Sacre, Candace	Redirect?
11:29:50 AM	Chairman Chandler Note: Sacre, Candace	Additional comments?
11:29:54 AM	Chairman Chandler Note: Sacre, Candace	Brief?
11:29:59 AM	Chairman Chandler Note: Sacre, Candace	Witness is excused.
11:30:10 AM	Chairman Chandler Note: Sacre, Candace	Submitting on record?
11:30:19 AM	Chairman Chandler Note: Sacre, Candace	Anything else?
11:30:29 AM	Chairman Chandler Note: Sacre, Candace	Procedural discussion. (Click on link for further comments.)
11:31:23 AM	Chairman Chandler Note: Sacre, Candace	Sending something to parties ability participate in training? (Click on link for further comments.)
11:31:57 AM	Chairman Chandler Note: Sacre, Candace	Anything, Vice Chair?
11:31:58 AM	Vice Chairwoman Cubbage Note: Sacre, Candace	Nothing else.

11:32:01 AM

Chairman Chandler

Note: Sacre, Candace

Adjourn hearing, next one in October.

11:32:23 AM

Session Ended



Exhibit List Report

2021-00080 00083 00084 00268
00269 00270 19Aug2021
Damage Prevention Session 2

Name:	Description:
DOI STAFF EXHIBIT 1	INCIDENT 32452 PIPELINE DAMAGE INVESTIGATION REPORT
DOI STAFF EXHIBIT 1	INCIDENT 32503 PIPELINE DAMAGE INVESTIGATION REPORT
DOI STAFF EXHIBIT 1	INCIDENT 32502 PIPELINE DAMAGE INVESTIGATION REPORT

DOI STAFF EXHIBIT 1

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 32452
Incident Date 2/19/2020 4:45:00 PM	Report Submitted 3/4/2020 10:06:46 AM

OPERATOR INFORMATION

Operator Delta Natural Gas Company, Inc.	Reported By Craig Mitchell
Phone 859-744-6171 Ext. 1124	Email cmitchell@deltagas.com
Incident Location Int. Williams Rd. and KY-39 (Sulfur Well Rd.) Nicholasville, KY 40356	Locate Ticket Number
Jessamine	

EXCAVATOR INFORMATION

Name of Excavator Nichols, Brandon	Organization ID 102109
Phone 859-354-5588 or 859-379-4	Email NicholsContracting2018@gmail.
Excavator Address Nichols Contracting LLC 2200 Mackey Pike Nicholasville, KY 40356	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
None	N/A	N/A	N/A	2/19/20	N/A	N/A

Excavation Summary			
Excavation Within Tolerance Zone	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
N/A	Mechanized	\$549.00	\$0.00

The operator reports that Brandon Nichols with Nichols Contracting LLC was digging with an excavator to install an electric line when he hit and punctured a 2" plastic natural gas main line.

He did not call 811 to request a line location prior to excavating and therefore they did not know the location of the existing 2" plastic natural gas main line.

INVESTIGATION

This would be the company's first violation.

Website has phone number of: 859.379.4808.

October 27, 2020

- Called 859.379.4808, he requested I call him back, I indicated I would call back tomorrow.

October 28, 2020

- Called 859.379.4808, Mr. Nichols indicated the developer James Monroe had requested the dig ticket. Mr. Nichols acknowledged responsibility for hitting the line and agreed to the reduced penalty and remedial measure.

VIOLATION

KRS 367.4911 (1) (a) Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full working days nor more than ten (10) full working days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.

Gas Excavation Damage Report

Delta Natural Gas Company, Inc.

Submitted 3/4/2020 Incident ID: 32452

[Set back to Edit](#)

[Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32452\)](#)

Reported By:

Name: Craig Mitchell
Phone: 859-744-6171 Ext. 1124
Email: cmitchell@deltagas.com

Gas Line Incident Occured:

Date: 2/19/2020
Time: 4:45 PM

Details:

Reported Date: 2/25/2020 4:12 PM

Incident Location Address:

Location: Int. Williams Rd. and KY-39 (Sulfur Well Rd.)
Address: Int. Williams Rd. and KY-39 (Sulfur Well Rd.)
City: Nicholasville
State: KY
County: Jessamine
Zip: 40356

Confirm Code:

Number of Customers out: 8

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.:

Excavator: Contractor

Excavator Address:

First Name: Brandon
Last Name: Nichols
Organization ID: 102109
Company: Nichols Contracting LLC
Phone: 859-354-5588 or 859-379-4
Email: NicholsContracting2018@gmail.com

Address: 2200 Mackey Pike
City: Nicholasville
State: KY
Zip: 40356
Confirm Code: Y
Excavation Damage: No notification made to the One Call Center

Description of Incident Brandon Nichols with Nichols Contracting LLC was digging with an excavator to install an electric line when he hit and punctured a 2" plastic natural gas main line.

Summary Information

3/4/2020

Full details such as the cause	Brandon Nichols with Nichols Contracting LLC did not call 811 to request a line location prior to excavating and therefore they did not know the location of the existing 2" plastic natural gas main line.
Extent of the damage	There were no injuries or property damage attributable to this incident. Delta employees replaced approximately 2' of 2" plastic pipe and installed (2) 2" electrofusion couplings to re-establish service to the (8) customers that had been impacted by the event.
Cost of the damage	\$549.00
Steps taken to prevent re-occurrence	Brandon Nichols with Nichols Contracting LLC was informed that the law requires anyone that is going to do any type of excavation work must call 811 and request a line location at least two working days prior to starting work and, when excavation is necessary within the approximate location of the pipeline (18" on either side), the law requires hand digging or use of non intrusive means to avoid damage to the pipeline.
Amount billed to excavator	\$0.00

Nichols Contracting LLC

General Information

Organization Number	1025109
Name	Nichols Contracting 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	6/26/2018 10:32:50 AM
Organization Date	6/26/2018
Last Annual Report	9/16/2020
Principal Office	2200 Mackey Pike Nicholasville, KY 40356
Managed By	Members
Registered Agent	Brandon Nichols 2200 Mackey Pike Nicholasville, KY 40356

Current Officers

Member	Iearl Brandon Nichols
---------------	---------------------------------------

Individuals / Entities listed at time of formation

Organizer	Brandon Nichols
Registered Agent	Brandon Nichols

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	9/16/2020	1 page	PDF
Annual Report	8/20/2019	1 page	PDF
Articles of Organization	6/26/2018 10:32:52 AM	1 page	PDF

Assumed Names

Activity History

Filing	File Date	Effective Date	Org. Referenced
Annual report	9/16/2020 11:38:48 AM	9/16/2020 11:38:48 AM	
Annual report	8/20/2019 6:01:44 PM	8/20/2019 6:01:44 PM	
Add	6/26/2018 10:32:50 AM	6/26/2018 10:32:50 AM	

Microfilmed Images

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 32503
Incident Date 3/4/2020 10:00:00 AM	Report Submitted 3/30/2020 11:19:00 AM

OPERATOR INFORMATION

Operator Duke Energy Kentucky, Inc.	Reported By Laura Mate
Phone (513) 287-2594	Email Laura.Mate@duke-energy.com
Incident Location 720 Roberts, Newport 720 Roberts St Newport, KY 41071 Campbell	Locate Ticket Number No ticket

EXCAVATOR INFORMATION

Name of Excavator Ormes, Brian	Organization ID 0887375
Phone 8596282739	Email Bosselectricllc@gmail.com
Excavator Address Boss Construction, LLC 115 E 31st St Covington, KY 41015	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
None	N/A	N/A	N/A	3/4/20	N/A	N/A

Excavation Summary			
Excavation Within Tolerance Zone	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
N/A	Mechanized	\$0.00	\$0.00

The operator reports that Boss Construction LLC. was installing a retaining wall. While excavating the hill side they inadvertently came into contact with Duke Energy’s gas service line. After further investigation I discovered that Boss Construction LLC. had not notified the One-Call System prior

to excavation. This is the second time this gas service was damaged by Boss Construction. See incident # 32502.

INVESTIGATION

November 6, 2020

- Called 859.628.2739, spoke to Mr. Ormes, who stated he called 811 twice and couldn't get Duke to mark the lines due to debris in the yard. While moving some rock one fell and broke the line. I requested that he find the numbers and gave him my phone number and email address.

November 13, 2020

- Called 859.628.2739, he asked that I send him the information on resolution, he stated the company was in bankruptcy and he needed to discuss with his attorney. He provided: bosselectricllc@gmail.com.
- Mr. Ormes indicated this was the second time they hit the line, and they were digging with a shovel.

November 20, 2020

- Having heard nothing from Mr. Ormes, the decision is to send a demand letter for \$1250 for this incident, and a second demand letter for \$2000 for incident # 32503.

November 23, 2020

- Received two dig tickets from 811, the first dated 12/9/19 and the second dated 12/16/19. The first dig ticket would have expired on 12/30/19, and the second would have expired on 1/6/20. The incident occurred on March 3, 2020, 57 days after the ticket expired.

VIOLATION

KRS 367.4911 (8) The excavator shall contact the protection notification center to request remarking two (2) working days in advance of the expiration of each twenty-one (21) day period while excavation or demolition.

KRS 367.4911 (7) If, after the two (2) day period provided by KRS 367.4909(5)(a), the excavator finds evidence of an unmarked underground facility at the site, he shall immediately notify the protection notification center.

Gas Excavation Damage Report

Duke Energy Kentucky, Inc.

Submitted 3/30/2020 Incident ID: 32503

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32503\)](#)

Reported By:

Name: Laura Mate
Phone: (513) 287-2594
Email: Laura.Mate@duke-energy.com

Gas Line Incident Occured:

Date: 3/4/2020
Time: 10:00 AM

Details:

Reported Date: 3/30/2020 11:11 AM

Incident Location Address:

Location: 720 Roberts, Newport
Address: 720 Roberts St
City: Newport
State: KY
County: Campbell
Zip: 41071
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.: No ticket

Excavator: Contractor

Excavator Address:

First Name: Brian
Last Name: Ormes
Organization ID: 0887375
Company: Boss Construction, LLC
Phone: 8596282739
Email: Bosselectricllc@gmail.com

Address: 115 E 31st St
City: Covington
State: KY
Zip: 41015
Confirm Code: Y
Excavation Damage: No notification made to the One Call Center

Description of Incident This is the second time this gas service was damaged by Boss Construction. They failed to notify 811 to have the underground utilities marked.

Summary Information

3/30/2020

Full details such as the cause Boss Construction LLC. was installing a retaining wall. While excavating the hill side they inadvertently came into contact with Duke Energy's gas service line. After further investigation I discovered that Boss Construction LLC. had not notified the One-Call System prior to excavation.
Extent of the damage Gas service damaged by tractor.
Cost of the damage \$0.00
Steps taken to prevent re-occurrence
Amount billed to excavator \$0.00

Gowins, John E (PSC)

From: Gowins, John E (PSC)
Sent: Friday, November 13, 2020 9:58 AM
To: vosselectricllc@gmail.com
Subject: Incidents # 32502 and 32503
Attachments: Original_Duke Report_32502.pdf; Original_Duke Report_32503.pdf

Mr. Ormes,

To resolve the first violation, the options are:

1. A \$1,250 civil penalty reduced to \$250 provided a representative of your company participates in a damage prevention training to be held in the future online;
2. No one has to participate in the training, but the full \$1,250 civil penalty would be due; or
3. You may request a hearing before the commissioners.

To resolve the second violation, we cannot reduce the penalty and the amount is \$2,000.

I have included the original Duke reports.

We agreed that you would contact me next week.

John E. Gowins
Consumer Complaints Investigator II
Division of Inspections
Kentucky Public Service Commission
502.782.2656 office
502.229.3058 cell

Boss Construction, LLC

General Information

Organization Number	0887375
Name	Boss Construction, LLC
Profit or Non-Profit	P - Profit
Company Type	KLC - Kentucky Limited Liability Company
Status	I - Inactive
Standing	B - Bad
State	KY
File Date	5/15/2014 9:10:54 AM
Organization Date	5/15/2014 9:10:54 AM
Last Annual Report	6/26/2019
Principal Office	10 West 7th Street Newport, KY 41071
Managed By	Managers
Registered Agent	Brian Ormes 10 West 7th Street Newport, KY 41071

Current Officers

Member	Brian Ormes
Member	Bonnie Ormes
Member	Raephael Dell
Member	James Stidham

Individuals / Entities listed at time of formation

Organizer	BRIAN ORMES
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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.

Administrative Dissolution	10/8/2020	1 page	PDF
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Annual Report	8/28/2015	1 page	PDF
Articles of Organization	5/15/2014 9:10:55 AM	1 page	PDF

Assumed Names

Activity History

Filing	File Date	Effective Date	Org. Referenced
Admin Dis. A. report not in	10/8/2020	10/8/2020	
Annual report	6/26/2019 9:25:57 AM	6/26/2019 9:25:57 AM	
Annual report	5/24/2018 4:36:16 PM	5/24/2018 4:36:16 PM	
Annual report	4/26/2017 12:31:33 PM	4/26/2017 12:31:33 PM	

Amendment to annual report	4/8/2016 10:49:59 AM	4/8/2016 10:49:59 AM
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Annual report	8/28/2015 4:56:29 PM	8/28/2015 4:56:29 PM
Add	5/15/2014 9:10:54 AM	5/15/2014 9:10:54 AM

Microfilmed Images

DOI STAFF EXHIBIT 1

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 32502
Incident Date 3/3/2020 5:13:00 PM	Report Submitted 3/30/2020 11:11:02 AM

OPERATOR INFORMATION

Operator Duke Energy Kentucky, Inc. Phone (513) 287-2594 Incident Location 720 Roberts, Newport 720 Roberts St Newport, KY 41071 Campbell	Reported By Laura Mate Email Laura.Mate@duke-energy.com Locate Ticket Number No ticket
--	---

EXCAVATOR INFORMATION

Name of Excavator Ormes, Brian Phone 859-628-2739 Excavator Address Boss Construction, LLC 115 E 31st St Covington, KY 41015	Organization ID 0887375 Email Bosselectricllc@gmail.com 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
None	N/A	N/A	N/A	3/3/20	N/A	N/A

Excavation Summary			
Excavation Within Tolerance Zone	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
N/A	N/A	\$547.00	\$547.00

The operator reports that per damage investigator's notes: Mr. Ormes confirmed that they were performing excavation around the gas line, they did not hit it but during their excavation a rock fell onto the line in which damaged it.

INVESTIGATION

This would be the company's first violation.

November 6, 2020

- Called 859.628.2739, spoke to Mr. Ormes, who stated he called 811 twice and couldn't get Duke to mark the lines due to debris in the yard. While moving some rock one fell and broke the line. I requested that he find the numbers and gave him my phone number and email address.

November 13, 2020

- Called 859.628.2739, he asked that I send him the information on resolution, he stated the company was in bankruptcy and he needed to discuss with his attorney. He provided: bosselectricllc@gmail.com.
- Mr. Ormes indicated this was the second time they hit the line, and they were digging with a shovel.

November 23, 2020

- Received two dig tickets from 811, the first dated 12/9/19 and the second dated 12/16/19. The first dig ticket would have expired on 12/30/19, and the second would have expired on 1/6/20. The incident occurred on March 3, 2020, 57 days after the ticket expired.

VIOLATION

KRS 367.4911 (8) The excavator shall contact the protection notification center to request remarking two (2) working days in advance of the expiration of each twenty-one (21) day period while excavation or demolition.

Gas Excavation Damage Report

Duke Energy Kentucky, Inc.

Submitted 3/30/2020 Incident ID: 32502

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32502\)](#)

Reported By:

Name: Laura Mate
Phone: (513) 287-2594
Email: Laura.Mate@duke-energy.com

Gas Line Incident Occured:

Date: 3/3/2020
Time: 5:13 PM

Details:

Reported Date: 3/30/2020 11:04 AM

Incident Location Address:

Location: 720 Roberts, Newport
Address: 720 Roberts St
City: Newport
State: KY
County: Campbell
Zip: 41071
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.: No ticket

Excavator: Contractor

Excavator Address:

First Name: Brian
Last Name: Ormes
Organization ID: 0887375
Company: Boss Construction, LLC
Phone: 859-628-2739
Email: Bosselectricllc@gmail.com

Address: 115 E 31st St
City: Covington
State: KY
Zip: 41015
Confirm Code: Y
Excavation Damage: No notification made to the One Call Center

Description of Incident Per damage investigator's notes: Mr Ormes confirmed that they were performing excavation around the gas line, they did not hit it but during their excavation a rock fell onto the line in which damaged it.

Summary Information

3/30/2020

Full details such as the cause Excavator left the scene before the Duke Energy crew arrived to repair the damaged gas service, but later stated that a rock fell on the gas service while they were excavating, thus damaging the gas service.
Extent of the damage Gas service required repair.
Cost of the damage \$547.00
Steps taken to prevent re-occurrence
Amount billed to excavator \$547.00

Boss Construction, LLC

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Add	5/15/2014 9:10:54 AM	5/15/2014 9:10:54 AM

Microfilmed Images

Gowins, John E (PSC)

From: Mate, Laura L <Laura.Mate@duke-energy.com>
Sent: Friday, November 6, 2020 8:12 AM
To: Gowins, John E (PSC)
Subject: RE: Incident # 32502
Attachments: 720 Roberts - Claim Support Package.pdf

****CAUTION** PDF attachments may contain links to malicious sites. Please contact the COT Service Desk ServiceCorrespondence@ky.gov for any assistance.**

The note from the Duke Energy first responder on this damage is "Found service C-M cut in half by Boss Construction". I don't see anything else that contradicts Boss's statement.

Boss Construction did not have a dig ticket, so they were charged for the repair costs.

Laura Mate', P.E.

Duke Energy

Regulatory Compliance

513-287-2594 Office

859-206-4639 Cell

From: Gowins, John E (PSC) <john.gowins@ky.gov>
Sent: Friday, November 6, 2020 7:22 AM
To: Mate, Laura L <Laura.Mate@duke-energy.com>
Subject: [EXTERNAL] Incident # 32502

***** CAUTION! EXTERNAL SENDER *** STOP & THINK! Do you know and trust this sender? Were you expecting this email? Are grammar and spelling correct? Does the content make sense? If suspicious, then do not click links, open attachments or enter your ID or password.**

Good morning Laura,

I was wondering if you had any additional information on this one.

Also, the excavator claimed a rock fell on the gas line. Did that sound reasonable based on the damage?

Thanks.

John E. Gowins
Consumer Complaints Investigator II
Division of Inspections
Kentucky Public Service Commission
502.782.2656 office
502.229.3058 cell



INVOICE



Please Make Check Payable to: Project Resources Group

Remit to: Project Resources Group, Inc. Attn. Damage Claims 5340 S. Quebec St., Suite 250S Greenwood Village, CO 80111 EIN: 84-1576547	Invoice # DK-435856 Date: March 30, 2020 Terms: Due Upon Receipt Conf. Code # E4XGA
---	--

Responsible for Damages: Boss Construction LLC 10 W 7th St Newport, KY 41071
--

Date & Address Where Damage Occurred: 3/3/2020 720 Roberts Newport, KY 41071

Labor and Materials Costs:		<u>Units</u>	<u>Unit Rate</u>	<u>Amount</u>
<i>Internal Labor Costs</i>				
	Service Mechanic B	1.00	\$72.31	\$72.31
	Mechanic Operator III	2.00	\$55.80	\$111.60
	Mechanic Operator I	2.00	\$73.51	\$147.02
	Emergency Call Out	1.00	\$175.00	\$175.00
	SRW Utility, Stake, Flat 4x4	1.00	\$3.39	\$3.39
	DRW 15-26K Utility, Stake, Flat, Dump 4x2	2.00	\$13.28	\$26.56
	Damage Investigation/Quality Control			<u>\$137.00</u>
	Sub-Total			\$672.88
<i>Material Costs</i>				
	Pipe	4.00	\$0.47	\$1.88
	Label	2.00	\$4.56	<u>\$9.12</u>
	Sub-Total			\$11.00
Invoice Total				<u>\$683.88</u> =====

Please Make Check Payable to: Project Resources Group

For questions regarding this invoice, please contact: Jed Floyd, (720) 500.9655 or via email jfloyd@prgconsulting.net

Damage Investigation Findings

PRG CLAIM:	DK-435856	
DATE OF OUTAGE:	03/03/2020	05:10 PM
NOTIFICATION:	03/03/2020	05:13 PM
ARRIVAL:	03/03/2020	06:28 PM
LOCATION:	720 Roberts, Newport, KY 41071	
LOCATE TICKET:	(none)	
INVESTIGATOR:	Christopher Hogle	

SUMMARY

On Tuesday, March 3, 2020, I was notified by Duke Energy about damage at 720 Roberts, Newport, KY 41071. Duke Energy's Underground Facilities were damaged at the above stated location by unsecured debris during excavation.



STATEMENTS

USIC / Fact Based Investigation Report Notification ID 22320200303023 - "Cause Factors No ticket / locate request"

Brian Ormes / Damaging Party / Boss Construction - "We are working on a retaining wall at the address the gas line was hit. We were digging around the gas line and a rock fell onto the line that we were working near and it broke."

DETERMINATION

It has been determined that on March 3rd, 2020 Boss Construction LLC was performing a retaining wall installation in the front residential yard of the above stated location. During this time, as the result of an excavation performed by Boss an unsecured rock came into contact with and thus damaged an underground natural gas facility owned by Duke Energy Company. Boss Construction LLC failed to request or obtain a locate ticket via One-Call center prior to excavation at the damage location as well as failed to properly expose and protect and underground utility facility.

Law(s): **KRS 367.4911**

Excavator or person responsible for excavation to notify operator of work schedule -- Responsibilities of excavator. (1) (a) Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full working days nor more than ten (10) full working days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement. Excavator or person responsible for excavation to notify operator of work schedule -- Responsibilities of excavator.



ROOT CAUSE

Failure to notify the One Call Center



435856 - Investigator1.jpeg



435856 - Investigator2.jpeg



435856 - Investigator3.jpeg



435856 - Investigator4.jpeg



435856 - Investigator5.jpeg



435856 - Investigator6.jpeg



435856 - Investigator7.jpeg

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*Brandon Nichols
Registered Agent
Nichols Contracting LLC
2200 Mackey Place
Nicholasville, KENTUCKY 40356