

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FREDRICK GILLIAM DBA ABOVE ALL SEPTIC)	
)	
_____)	CASE NO.
)	2021-00272
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

Fredrick Gilliam DBA Above All Septic (Fredrick Gilliam) 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 Above All Septic for violation of the following provision of the Act:

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.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds prima facie evidence that Fredrick Gilliam 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. Fredrick Gilliam 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 32693 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 Fredrick Gilliam once proof of service is received by the Commission. Parties who fail to appear after service will be subject to entry of a default judgment against them.**

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By the Commission

ENTERED
JUN 28 2021 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2021-00272

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00272 DATED JUN 28 2021

FOUR PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 32693
Incident Date 5/19/2020 1:41:00 PM	Report Submitted 6/15/2020 11:05:46 AM

OPERATOR INFORMATION

Operator Duke Energy Kentucky, Inc.	Reported By Laura Mate
Phone (513) 287-2594	Email Laura.Mate@duke-energy.com
Incident Location 2995 Lakeview Dr, Independence 2995 Lakeview Dr Independence, KY 41051 Kenton	Locate Ticket Number No ticket

EXCAVATOR INFORMATION

Name of Excavator Gilliam, Fredrick	Organization ID
Phone 513-259-7341	Email
Excavator Address Above All Septic 7899 Ymca Rd Cincinnati, OH 45244	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	5/19/20	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	\$0.00	\$0.00

The operator reports that Above All Septic was performing a septic repair service using a backhoe at the above stated location for the Wilson residence. During this time, Above All Septic came into contact with and thus damaged an underground natural gas facility owned by Duke Energy

Company. Above All Septic failed to request or obtain a locate ticket prior to commencing excavation via 811 One Call Center. Homeowner is Luke Wilson 859-512-8743.

INVESTIGATION

Verified the above phone number online.

This would be the company's first violation.

January 28, 2021

- Called 513.259.7341, left a v.m.

February 10, 2021

- Called 513.259.7341, left a second v.m.

February 17, 2021

- Called 513.259.7341, left a v.m. indicating a demand letter was coming.

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

Duke Energy Kentucky, Inc.

Submitted 6/15/2020 Incident ID 32693

[Set back to Edit](#)
[Staff Edit](#)
[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32693\)](#)

Reported By:

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

Gas Line Incident Occured:

Date	5/19/2020
Time	1:41 PM

Details:

Reported Date	6/15/2020 10:59 AM
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Incident Location Address:

Location	2995 Lakeview Dr, Independence
Address	2995 Lakeview Dr
City	Independence
State	KY
County	Kenton
Zip	41051
Confirm Code	Y

Number of Customers out	1
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Was gas or hazardous liquids contained in the underground facility?	<input checked="" type="checkbox"/>
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Was gas or hazardous liquids released into the atmosphere?	<input checked="" type="checkbox"/>	*
		3/2020

Locate Request Ticket No.	No ticket
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Excavator	Contractor
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Excavator Address:

First Name	Fredrick
Last Name	Gilliam
Organization ID	
Company	Above All Septic
Phone	513-259-7341
Email	

Address 7899 Ymca Rd
City Cincinnati
State OH
Zip 45244
Confirm Code Y
Excavation Damage No notification made to the One Call Center

Description of Incident Unmarked gas service was damaged by a backhoe during excavations for a septic system repair.

Summary Information

6/15/2020

Full details such as the cause Above All Septic was performing a septic repair service at the above stated location for the Wilson residence. During this time, Above All Septic came into contact with and thus damaged an underground natural gas facility owned by Duke Energy Company. Above All Septic failed to request or obtain a locate ticket prior to commencing excavation via 811 One Call Center. Homeowner is Luke Wilson 859-512-8743.

Extent of the damage Gas service damaged.
Cost of the damage \$0.00
Steps taken to prevent re-occurrence
Amount billed to excavator \$0.00

Above All Septic
4524 Glenridge Dr
Cincinnati, OHIO 45245