

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|                                  |   |            |
|----------------------------------|---|------------|
| JOSE MOMAM DBA JR CONSTRUCTION   | ) |            |
|                                  | ) |            |
| _____                            | ) | CASE NO.   |
|                                  | ) | 2021-00276 |
| ALLEGED VIOLATION OF UNDERGROUND | ) |            |
| FACILITY DAMAGE PREVENTION ACT   | ) |            |

OPENING ORDER

Jose Momam DBA JR Construction (Mr. Momam) 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).<sup>1</sup>

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,

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<sup>1</sup> 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. Momam 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 Mr. Momam 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. Mr. Momam shall submit to the Commission, via email sent to [PSCED@ky.gov](mailto: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.

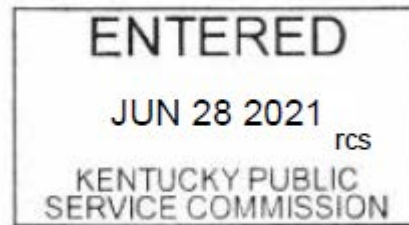
2. **Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.**

3. The Staff Incident Report 32624 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 Mr. Momam 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

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2021-00276 DATED JUN 28 2021

SEVEN PAGES TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

|  |  |
|--|--|
| <b>KY PSC Investigator(s)</b> John E. Gowins | <b>Incident ID</b> 32624                     |
| <b>Incident Date</b> 5/14/2020 9:19:00 AM    | <b>Report Submitted</b> 6/2/2020 11:18:48 AM |

## OPERATOR INFORMATION

|  |                                   |
|--|-----------------------------------|
| <b>Operator</b> Columbia Gas of Kentucky, Inc.                                     | <b>Reported By</b> Ryan Twait     |
| <b>Phone</b> (859) 533-4022  | <b>Email</b> rmtwait@nisource.com |
| <b>Incident Location</b><br>101 Classic Ct<br>Versailles, KY 40383<br><br>Woodford | <b>Locate Ticket Number</b> n/a   |

## EXCAVATOR INFORMATION

|   |                                       |
|---|---------------------------------------|
| <b>Name of Excavator</b> Peztana, Jose  | <b>Organization ID</b>                |
| <b>Phone</b> 502-316-0887   | <b>Email</b> Jrconstruction@gmail.com |
| <b>Excavator Address</b><br>JR Construction<br>114 Davis Ct<br>Georgetown, KY 40324 | <b>Locate Ticket Number</b>           |

## INCIDENT

| Locate Ticket Summary |       |              |   |               |                   |                            |
|-----------------------|-------|--------------|---|---------------|-------------------|----------------------------|
| Ticket #              | Valid | Initial Date | Expiration Date<br>(21 calendar days from Initial date) | Incident Date | # of Days Expired | Within Scope of Excavation |
| None                  | N/A   | N/A          | N/A   | 5/14/20       | N/A               | N/A                        |

| Excavation Summary               |                        |                                  |                              |
|----------------------------------|------------------------|----------------------------------|------------------------------|
| Excavation Within Tolerance Zone | Type Of Equipment Used | Cost of Damage<br>(Per Operator) | Amount Billed<br>(Excavator) |
| N/A                              | Mechanized             | \$670.00                         | \$670.00                     |

The operator reports that JR Construction was excavating an area without a locate ticket. While excavating with a skid steer, JR Construction struck and damaged a plastic one-inch natural gas service line.

## **INVESTIGATION**

A review of the Kentucky Secretary of State's office records show seven companies but none match the specifics of this company.

Using an online reverse telephone shows the above telephone number for Jose Roman at 114 Davis Ct, Georgetown, KY.

January 26, 2021

- Called 502.316.0887, spoke to Jose Momam, he will text me his email so that I can send him information.
- Received a text w/the email address of: [JRconstructionky@gmail.com](mailto:JRconstructionky@gmail.com).
- Sent an email with the three options.

February 4, 2021

- Sent a second email.

February 11, 2021

- Decision made to send demand letter.

## **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

## Columbia Gas of Kentucky, Inc.

Submitted 6/2/2020 Incident ID 32624

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32624\)](#)

### Reported By:

|       |                     |
|-------|---------------------|
| Name  | Ryan Twait          |
| Phone | (859) 533-4022      |
| Email | mtwait@nisource.com |

### Gas Line Incident Occured:

|      |           |
|------|-----------|
| Date | 5/14/2020 |
| Time | 9:19 AM   |

### Details:

|               |                    |
|---------------|--------------------|
| Reported Date | 5/19/2020 11:28 AM |
|---------------|--------------------|

### Incident Location Address:

|   |                                       |
|---|---------------------------------------|
| Location  |                                       |
| Address   | 101 Classic Ct                        |
| City  | Versailles                            |
| State   | KY                                    |
| County  | Woodford                              |
| Zip   | 40383                                 |
| 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 checked="" type="checkbox"/> * |
|   | 3/2020                                |
| Locate Request Ticket No.   | n/a                                   |
| Excavator   | Contractor                            |

### Excavator Address:

|                 |                          |
|-----------------|--------------------------|
| First Name      | Jose                     |
| Last Name       | Peztana                  |
| Organization ID |                          |
| Company         | JR Construction          |
| Phone           | 502-316-0887             |
| Email           | Jrconstruction@gmail.com |



|                          |   |
|--------------------------|---|
| <b>Address</b>           | 114 Davis Ct                                |
| <b>City</b>              | Georgetown                                  |
| <b>State</b>             | KY  |
| <b>Zip</b>               | 40324                                       |
| <b>Confirm Code</b>      | Y   |
| <b>Excavation Damage</b> | No notification made to the One Call Center |

**Description of Incident** JR Construction dug into a plastic one inch natural gas service line with mechanized equipment.

### Summary Information

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6/2/2020

|   |  |
|---|--|
| <b>Full details such as the cause</b>       | JR Construction was excavating an area without a locate ticket. While excavating with a skid steer, JR Construction struck and damaged a plastic one inch natural gas service line.  |
| <b>Extent of the damage</b>                 | A plastic one inch natural gas service line was severed, and the service line was repaired.  |
| <b>Cost of the damage</b>                   | \$670.00   |
| <b>Steps taken to prevent re-occurrence</b> | CKY's Damage Prevention Specialist setup and conducted a safety tailgate with JR Construction following the damage to educate them on the 811 dig law. The Damage Prevention Specialist also provided excavator pocket manuals and pocket color code reference cards to JR Construction. |
| <b>Amount billed to excavator</b>           | \$670.00   |

## Gowins, John E (PSC)

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**From:** Gowins, John E (PSC)  
**Sent:** Tuesday, January 26, 2021 9:16 AM  
**To:** JRconstructionky@gmail.com  
**Subject:** Incident # 32624  
**Attachments:** Original\_Columbia Report\_32624.pdf

Jose,

As we discussed on the phone, I am trying to determine if your company has violated KRS 367.4911 (1) (a) which states: 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.

I have included the report received from Columbia. This states that JR Construction was excavating without calling 811 to receive a dig ticket.

The money that you have already paid was to Columbia to cover the costs of the repair.

To resolve the violation, JR Construction has three options:

1. A Demand Letter with a \$1,250 civil penalty that is reduced by \$1,000 to \$250 as long as a representative of JR Construction participates in a damage prevention training held on the first Monday of every month;
2. No one has to participate in the training, but the full \$1,250 penalty would be due;
3. You can request a hearing before the commissioners, but this would require that JR Construction be represented by an attorney.

Please let me know which option you would prefer, and please confirm who to send the letter to, and the correct address.

Thank you.

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

## Gowins, John E (PSC)

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**From:** Gowins, John E (PSC)  
**Sent:** Thursday, February 4, 2021 7:22 AM  
**To:** JRconstructionky@gmail.com  
**Subject:** FW: Incident # 32624  
**Attachments:** Original\_Columbia Report\_32624.pdf

Jose,

I sent this to you over a week ago, but I haven't received any reply.

If I don't hear from you by Monday, February 8, I will be sending you a demand letter with the requirements of option 2 below.

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**From:** Gowins, John E (PSC)  
**Sent:** Tuesday, January 26, 2021 9:16 AM  
**To:** JRconstructionky@gmail.com  
**Subject:** Incident # 32624

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