

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KEVIN WOODS)	
)	
_____)	CASE NO.
)	2021-00353
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

Kevin Woods (Mr. Woods) 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. Woods 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. Woods 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. Woods 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 43508 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. Woods 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. 2021-00353

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00353 DATED SEP 15 2021

TWELVE PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Eric V. Tout Incident Date 4/7/2021 5:15:00 PM	Incident ID 43508 Report Submitted 4/13/2021 8:57:59 AM	Key 7478
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OPERATOR INFORMATION

Operator Paintsville Utilities Phone (606) 789-2630 Incident Location Paintsville, KY 209 Jennifer Dr. Paintsville, KY 41240 Johnson	Reported By tom daniels Email tmdaniels@paintsvilleutilities.co Locate Ticket Number no ticket
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EXCAVATOR INFORMATION

Name of Excavator Woods, Kevin Phone 606-339-4150 Excavator Address 19 Gray Ct Prestonsburg, KY 41653	Organization ID Email kevin.woods@gmail.com Locate Ticket Number
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INCIDENT

The Operator reports that the Excavator/Homeowner damaged a ¾ inch gas service, with a mini-excavator, digging a diversion ditch and failed to call the KY Contact Center (811).

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

DR Summary

Excavation Within 18" (Approximate Location)	Type Of Equipment Used	Cost of Damage	Amount Billed
No call to 811	Mechanized / Mini-Excavator	\$0.00	\$0.00

INVESTIGATION

On 04/19/21 an attempt to contact the excavator resulted in a message stating you have reached 606-339-4150 wherein a message was left. Keven Woods returned the call leaving a message.

On 05/18/21 Mr. Woods call was returned and a message was left and Mr. Woods returned the call leaving his email address, kevin.wood2@gmail.com.

On 05/19/21 Mr. Woods stated that no call was made to 811. Mr. Woods stated that on the incident date the gas company's representative on scene indicated and place in his report that it would have made no difference if 811 was called due to the service line being un-locatable.

On 05/24/21, via email, the Operator, Paintsville Utilities' Tom Daniels, stated that he contacted Bobby Goble of Paintsville Utilities and Mr. Goble stated that he would never tell anyone a line is un-locatable.

Mr. Daniels's email is included as Attachment 2.

On 05/25/21 a voice message was left informing Mr. Woods that a Demand Letter offering the Damage Prevention Course and the reduce penalty payment of \$100.00 would be forthcoming.

On 06/08/21 Mr. Daniels provided the following documents:

- Third Party Damage Report: Indicating Mr. Woods was digging a drainage ditch around the property, no call was made to 811, a small excavator was being utilized and a ¾ inch service was punctured.
- Paintsville Fire Dept. Incident Report: Indicating the Fire Dept. was displaced to the incident location and gas was spraying from the pipe with no fire. The owner of the property was on scene and he was attempting to dig a ditch for water/drainage control when the damage occurred and no call to 811 was made.

The documents provided by Mr. Daniels are included as Attachment 3.

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.

of Offences
(Including this incident)

Excavator	Last Offence Incident #	Last Offence Incident Date	Revert to 1st Offence Date (Last Offence Date +365 Days)
1 st	N/A	N/A	N/A

Attachment 1

Gas Excavation Damage Report

Paintsville Utilities

Submitted 4/13/2021 Incident ID 43508

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=43508\)](#)

Reported By:

Name	tom daniels
Phone	(606) 789-2630
Email	tmdaniels@paintsvilleutilities.com

Gas Line Incident Occured:

Date	4/7/2021
Time	5:15 PM

Details:

Reported Date	4/13/2021 8:44 AM
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Incident Location Address:

Location	Paintsville ,ky
Address	209 Jennifer Dr
City	Paintsville
State	KY
County	Johnson
Zip	41240
Confirm Code	Y
Number of Customers out	0
Was gas or hazardous liquids contained in the underground facility?	<input checked="" type="checkbox"/>
Was gas or hazardous liquids released into the atmosphere?	<input checked="" type="checkbox"/> *
	3/2020
Locate Request Ticket No.	no ticket
Excavator	Home Owner

Excavator Address:

First Name	Kevin
Last Name	Woods
Phone	606-339-4150
Email	kevin.woods@gmail.com
Address	19 Gray Ct
City	Prestonsburg

State	KY
Zip	41653
Confirm Code	Y
Excavation Damage	No notification made to the One Call Center

Description of Incident Digging diversion ditch around house to keep water out of basement.

Summary Information

4/13/2021

Full details such as the cause	Digging with small excavator in back of house hit gas service line. He said he though gas line was beside the street.
Extent of the damage	repaired with two 3/4" couplings 8"pipex3/4 plastic line
Cost of the damage	\$0.00
Steps taken to prevent re-occurrence	Painted a land mark by gas line.
Amount billed to excavator	\$0.00

Attachment 2

Tout, Eric V (PSC)

From: tmdaniels@paintsvilleutilities.com
Sent: Monday, May 24, 2021 2:35 PM
To: Tout, Eric V (PSC)
Subject: Re: 43508, 4/7/2021, 209 Jennifer Dr., Paintsville, Woods, Kevin

I talked with Bobby Goble and he said that we would never tell anyone that a line was unlocatable.

On May 19, 2021 12:13 PM Tout, Eric V (PSC) <ericv.tout@ky.gov> wrote:

Hello Tom,

Mr. Woods stated that the gas company's representative on scene place in his report, that it would have made no difference if 811 was called due to the service line being un-locatable. I will need a copy of that report and did any of Paintsville Utility's employees make statements regarding this service being un-locatable?

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

Attachment 3

THIRD PARTY DAMAGE REPORT

Date of Damage: Time of Damage: AM PM
M M / D D / Y Y Y Y 0 0 : 0 0

Address/Location of Damage: 209 Jennifer Dr.

City: Paintsville County: Johnson

- Excavator Type: Home Owner
 Contractor
 Utility
 State Agency
 Municipality

Excavator Name: Kevin Woods Phone Number: 606-339-4150

Company Name (if applicable): _____

Address: 19 Gray Ct E-mail Address: Kevin.woods2@gmail.com

City: Prestonburg State: Ky Zip: 41653

Company Contact: same Company Phone Number: same

Did Excavator Call 811? Yes No 811 Ticket Number: N/A

Attach a copy of the 811 Locate Request, if applicable

Details, Excavation Equipment Used and Cause of Damage: Small excavator was trying to dig a drainage ditch around the property

Number of Customers Affected: 0

Extent of Injuries and Property Damage: None

Steps Taken to Prevent Reoccurrence: Painted a landmark by gas line

- Reason for Damage:
- One-Call Notification Practices Not Sufficient
 - Facility Marking or Location Not Sufficient
 - Other Insufficient Excavation Practices
 - No Notification Made to One-Call Center
 - Wrong Information Provided to One-Call Center
 - Facility Could Not Be Found or Located
 - Facility Was Not Located or Marked
 - Incorrect Facility Maps
 - Failure to Maintain Marks
 - Failure to Support Exposed Facilities
 - Failure to Use Hand Tools Where Required
 - Failure to Test-Hole (Pot-Hole)
 - Improper Backfilling Practices
 - Failure to Maintain Clearance
 - One-Call Center Error
 - Abandoned Facility
 - Deteriorated Facility
 - Previous Damage
 - Data Not Collected
 - Other (Explain): _____

Damaged Pipeline: Punctured Completely Severed Leak Report Number: _____

Pipe Size: 3/4 Pipe Type: Plastic Steel

Facility Type: Transmission Distribution Service Line Main

If service line, was an excess flow valve installed on the line? Yes No

Operating Pressure at Time of Damage: 21 Type Feed: One-Way Two-Way

Duration from time of notification until flow stopped (not necessarily repaired): 30 min

Total Labor Required to Make Repairs: 2.5 Hours

Materials Used to Make Repairs: TWO 3/4 couplings 8" pipe x 3/4

Repaired by Kevin Pappas
and Tonge D. Webb

[Signature]
Manager

4-8-21
Date

**Paintsville Fire Department
Incident Report
Fire #2101112 - 1716 04/07/2021
Incident Number: 2101112**

Incident Information

Address: 209 Jennifer DR **Lat/Long:** 37.8068402, -82.8099657
Alarm/Box/Zone: **County:** Johnson
Alarm Time: 1716 **Incident Type:** 400 - Hazardous condition, other
En Route Time: 1716 **Mutual Aid:**
Arrival Time: 1721 **Officer In Charge:** Anthony Barker
In Service Time: 1731

Attendees

Unit	Type	Hours	# Personnel
Engine 1	11 Engine	0.25	1
	104 - Captain Anthony Barker	0.25	
Engine 2	11 Engine	0.25	1
	114 - Firefighter/EMT Ben Cook	0.25	

Actions

Primary Action: 55 Establish safe area
Secondary Action:
Other Action:
Other Action:

Description

On 04/07/2021 at 1716 hours, Paintsville Fire Department was dispatched to a(n) 400 Hazardous condition, other at 209 Jennifer DR.

Responding apparatus/crew were:

Engine 1 crewed by 104 Anthony Barker

Engine 2 crewed by 114 Ben Cook

Primary action taken was 55 Establish safe area.

En Route Time was 1716.

Arrival Time was 1731.

In Service Time was 1731.

In Quarters Time was 1731.

Officer In Charge was Anthony Barker.

More details of incident 2101112 can be found below.

PFD dispatched by Paintsville/Johnson Co, E-911 by alert tones to above location in reference to a gas line being exposed and spraying gas into the air. Dispatched advised that they had already made contact with City Utilities and that they had someone enroute. Upon our arrival to the above address the trucks was staged a safe distance away from the area. There was no flame visible coming from the gas line. Crews found a small excavator and male subject near the gas line. Male stated that he was the owner of the property and was try to dig a drainage ditch around the property cause he had water standing in the basement. He was asked if he contacted 811 before he started to dig and he advised negative. He stated he felt like it would be safe to dig because most generally gas lines follow the roadway. City Utilities arrived on scene and was informed of the situation. While turning the scene over Paintsville Fire All call tones was activated for a fire. Crews cleared the scene to respond to the fire. City Utilities remained on scene.

*Kevin Woods
19 Gray Ct
Prestonsburg, KENTUCKY 41653