

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ANDREW MICHELS)	
)	
_____)	CASE NO.
)	2021-00354
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

Andrew Michels (Mr. Michels) 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. Michels 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 Mr. Michels 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. Michels 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.

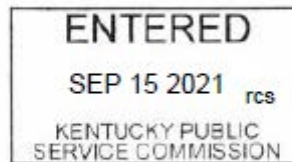
4. The Staff Incident Report 32611 in the Appendix to this Order is made a part of the record in this case.

5. **Please note that notice of a hearing to be held in this matter will be mailed to Mr. Michels 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

Commissioner Marianne Butler did not participate in the deliberations or decision concerning this case.



ATTEST:

A handwritten signature in blue ink, appearing to read "Linda C. Adwell". The signature is written in a cursive style and is positioned above a horizontal line.

Executive Director

Case No. 2021-00354

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00354 DATED SEP 15 2021

SIX PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Eric V. Tout Incident Date 4/15/2020 5:30:00 PM	Incident ID 32611 Report Submitted 5/12/2020 11:23:27 AM
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OPERATOR INFORMATION

Operator Louisville Gas and Electric Company Phone (502) 364-8281 Incident Location 1448 Oakwood Ave Louisville, KY 40215 Jefferson	Reported By Mike Jones Email Mike.Jones@lge-KU.com Locate Ticket Number 2003240320
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EXCAVATOR INFORMATION

Name of Excavator Michels, Andrew Phone 502-751-7008 Excavator Address 2501 Tennyson Ave Louisville, KY 40205	Organization ID Email Locate Ticket Number
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INCIDENT

The Operator reports that the Excavator/Homeowner damaged an accurately marked one-inch gas service with mechanized equipment attempting to repair a water service and the excavator's Loacte Ticket (LT) expired the day before.

The Damage Report is include as Attachment 1.

Excavation Summary

Excavation Within 18" (Approximate Location)	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
Yes & expired LT	Mechanized / Not specified	\$914.00	\$0.00

LT Summary

Ticket #	Valid	Initial Date	Expiration Date (21 calendar days from Initial date)	Incident Date	# of Days Expired	Within Scope of Excavation
2003240320	No	03/24/20	04/14/20	04/15/20	1	Yes

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

INVESTIGATION

A review of LT...0320 revealed it expired one day before the incident date (See Attachment 2 & LT Summary).

On 01/05/20 the Excavator/Homeowner, stated that the incident location was marked correctly and that his LT expired one day before the incident date. The Excavator/Homeowner was receptive to attending the Damage Prevention Course and paying the reduce penalty of \$100.00.

VIOLATION

KRS 367.4911

- (2) Locate requests are valid for twenty-one (21) calendar days from the day of the initial request.
- (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
1 st	N/A	N/A	N/A

Attachment 1

Gas Excavation Damage Report

Louisville Gas and Electric Company

Submitted 5/12/2020 Incident ID 32611

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32611\)](#)

Reported By:

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

Gas Line Incident Occured:

Date	4/15/2020
Time	5:30 PM

Details:

Reported Date	5/12/2020 11:17 AM
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Incident Location Address:

Location	
Address	1448 Oakwood Ave
City	Louisville
State	KY
County	Jefferson
Zip	40215
Confirm Code	Y
Number of Customers out	1
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.	2003240320
Excavator	Home Owner

Excavator Address:

First Name	Andrew
Last Name	Michels
Phone	502-751-7008
Email	
Address	2501 Tennyson Ave
City	Louisville

State KY
Zip 40205
Confirm Code Y
Excavation Damage Failure to use hand tools where required

Description of Incident Excavator (Homeowner) damaged service while digging to repair water service.

Summary Information

5/12/2020

Full details such as the cause Excavator (homeowner) damaged accurately marked 1" plastic gas service digging to repair water service. Marks were visible and within tolerance. The excavators BUD ticket had expired the day before. The excavator (homeowner) was making water service repairs and stated that the gas line was too close to the water service. There was a release of gas.
Extent of the damage 1" plastic service
Cost of the damage \$914.00
Steps taken to prevent re-occurrence Gave Mr. Michels a Safe Digging Brochure and advised on hand-digging within tolerance and life span of a locate request. I advised him to call in a new ticket immediately before continuing the repair of the water service.
Amount billed to excavator \$0.00

Attachment 2

NORMAL NOTICE

Ticket : 2003240320 Date: 03/24/2020 Time: 08:54 Oper: NDAVIS Chan:000

State: KY Cnty: JEFFERSON City: LOUISVILLE
Subdivision:

Address : 1448

Street : OAKWOOD AVE

Cross 1 : LONSDALE AVE

Location: IN THE FRONT OF THE PROPERTY - LOCATE THE ENTIRE DRIVEWAY
APPROXIMATELY 45 FEET

:

Boundary: n 38.177549 s 38.176353 w -85.789125 e -85.785717

Work type : REPAIRING WATER LINE

Done for : DAVID ANDREW MICHELS

Start date: 03/26/2020 Time: 09:15 Hours notice: 48/48 Priority: NORM

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

Duration : N/A Depth: 3 FEET

Company : DAVID ANDREW MICHELS Type: HOME

Co addr : 2501 TENNYSON AVE

City : LOUISVILLE State: KY Zip: 40205

Caller : DAVID ANDREW MICHELS Phone: (502)751-7008

Contact : DAVID ANDREW MICHELS - CELL Phone:

Mobile : (502)751-7008

Email : ANDREW_MICHELS@YAHOO.COM

Submitted date: 03/24/2020 Time: 08:54

Members: 0002 0004 0006 0139

*Andrew Michels
2501 Tennyson Avenue
Louisville, KENTUCKY 40205