

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

A & R CONSTRUCTION, LLC)	
)	
_____)	CASE NO.
)	2021-00355
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

A & R Construction, LLC (A & R) 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 A & R for violations of the following provisions 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.

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) period while excavation or demolition continues.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds prima facie evidence that A & R 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. A & R 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 42887 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 A & R 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:


Executive Director

Case No. 2021-00355

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00355 DATED SEP 17 2021

NINE PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Eric V. Tout Incident Date 7/15/2020 10:49:00 AM	Incident ID 42887 Report Submitted 8/12/2020 8:36:34 AM	Key 7438
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OPERATOR INFORMATION

Operator Louisville Gas and Electric Company Phone (502) 364-8281 Incident Location Riggs Blvd. & Lincoln Way Bardstown, KY 40004 Nelson	Reported By Mike Jones Email Mike.Jones@lge-KU.com Locate Ticket Number 2006151505
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EXCAVATOR INFORMATION

Name of Excavator Anderson, Andy Phone 502-777-5149 Excavator Address A & R Construction, LLC 130 Stringtown Rd New Hope, KY 40052	Organization ID 0965130 Email Locate Ticket Number
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INCIDENT

The Operator reports that the Excavator damaged a two-inch gas main with a track hoe, installing sewer, on another's expired Loacte Ticket (LT), and location marks were present, but vague.

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
on another's expired LT	Mechanized / Track Hoe	\$2,890.00	\$0.00

Locate Ticket (LT) Summary

Ticket #	Valid / For	Initial Date	Expiration Date (21 calendar days from Initial date)	Incident Date	# of Days Expired	Within Scope of Excavation
2006151505	No / H&H Enterprises	06/15/20	07/06/20	07/15/20	9	Yes
2007151564	No / A&R Construction	07/15/20 15:11	08/05/20	07/15/20 10:49	0	Yes

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

INVESTIGATION

A review of the LT...1505 revealed the work type as installing sewer/water/storm, done for C&D, obtained by H&H Enterprises, on 06/15/20, expired on 07/15/20, indicating it was expired nine days prior the incident date of 07/15/20. LT...1564 revealed the work type as installing sewer/water/storm, done for H&H Enterprises, obtained by A&R Construction, on the incident date of 07/15/20 at 15:11 hours, four hours twenty two minutes post the incident date of 07/15/20 at 10:49. This revealing A & R Construction held no valid LT when the damage occurred.

On 04/08/21 the Excavator, A & R Construction's Andy Anderson, stated that no valid LT was held on the incident date. Mr. Anderson was receptive to attending the Damage Prevention Course and paying the reduced penalty of \$250.00.

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.

(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 continues.

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

Louisville Gas and Electric Company

Submitted 8/12/2020 Incident ID 42887

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=42887\)](#)

Reported By:

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

Gas Line Incident Occured:

Date	7/15/2020
Time	10:49 AM

Details:

Reported Date	8/12/2020 8:31 AM
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Incident Location Address:

Location	Riggs Blvd. & Lincoln Way	
Address		
City	Bardstown	
State	KY	
County	Nelson	
Zip	40004	
Confirm Code		
Number of Customers out	36	
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.	2006151505	
Excavator	Contractor	

Excavator Address:

First Name	Andy
Last Name	Anderson
Organization ID	
Company	A & R Construction
Phone	502-777-5149
Email	

Address	130 Stringtown Rd
City	New Hope
State	KY
Zip	40052
Confirm Code	Y
Excavation Damage	No notification made to the One Call Center

Description of Incident ?Excavator damaged gas main while digging without a locate request.

Summary Information

8/12/2020

Full details such as the cause	Contractor damaged unmarked 2" plastic gas main while digging without a locate request. Contractor was using a track-hoe to install sewer. Contractor working off someone else's expired request. Vague remarks still remaining appear to be errant.
Extent of the damage	2" plastic gas main
Cost of the damage	\$2,890.00
Steps taken to prevent re-occurrence	I advised Mr. Anderson that he had to have his own locate request in KY. He was not allowed to dig legally on someone else's ticket. I also advised him that the ticket he said he was working off of is expired. I explained that tickets are good for 21 days, and must be recalled if excavation goes beyond the 21 days, or if marks need refreshing.
Amount billed to excavator	\$0.00

Attachment 2

NORMAL NOTICE

Ticket : 2006151505 Date: 06/15/2020 Time: 13:33 Oper: ABUTLER Chan:000

State: KY Cnty: NELSON City: BARDSTOWN
Subdivision: MAIN STREAM

Address :

Street : RIGGS BLVD

Cross 1 : LINCOLN WAY

Location: FROM THE INTERSECTION - TRAVEL WEST/NORTHWEST APPROX 1000 FEET - TO
CUL DE SAX - LOCATE THE ENTIRE CUL DE SAX - TO INCLUDE LOCATE GOING
WEST/NORTH OFF THE END OF THE CUL DE SAX 75 FEET - INTO THE OPEN LOT AREA - MAIN
STREAM SUBDIVISION MAY ALSO BE KNOWN AS SUNSET VILLAGE

:

Boundary: n 37.829666 s 37.826069 w -85.483724 e -85.477992

Work type : INSTALL SEWER/WATER/STORM

Done for : C & D

Start date: 06/17/2020 Time: 13:45 Hours notice: 48/48 Priority: NORM

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

Duration : N/A Depth: 4 FEET

Company : H AND H ENTERPRISE LLC Type: CONT

Co addr : 3945 NEW SHEPHERDSVILLE RD

City : BARDSTOWN State: KY Zip: 40004

Caller : TIM HUTCHINS Phone: (502)249-0816

Contact : TIM HUTCHINS - CELL Phone:

Mobile : (502)249-0816

Email : HFMBP@BARDSTOWN.COM

Submitted date: 06/15/2020 Time: 13:33

Members: 0002 0139 0141

* Responses are current as of 04/05/2021 11:06 AM

<u>Service Area</u>	<u>Utility Type(s)</u>	<u>Customer Service Contact</u>	<u>Positive Response</u>
LOUISVILLE GAS AND ELECTRIC 0002	ELECTRIC, GAS	LOUISVILLE GAS AND ELECTRIC CUSTOMER SERVICE (502) 589-1444	
AT&T DISTRIBUTION 0139	COMMUNICATIONS	AT&T DISTRIBUTION CUSTOMER SERVICE (888) 757-6500	
SALT RIVER RECC 0141	ELECTRIC		

NORMAL NOTICE

Ticket : 2007151564 Date: 07/15/2020 Time: 15:11 Oper: ABLOCK Chan:000

State: KY Cnty: NELSON City: BARDSTOWN
Subdivision: MAIN STREAM

Address :

Street : RIGGS BLVD

Cross 1 : LINCOLN WAY

Location: FROM THE INTERSECTION - TRAVEL WEST/NORTHWEST APPROX 1000 FEET - TO
CUL DE SAC - LOCATE THE ENTIRE CUL DE SAC - TO INCLUDE LOCATE GOING
WEST/NORTH OFF THE END OF THE CUL DE SAC 75 FEET - INTO THE OPEN LOT AREA - MAIN
STREAM SUBDIVISION MAY ALSO BE KNOWN AS SUNSET VILLAGE

:

Boundary: n 37.829666 s 37.826069 w -85.483724 e -85.477992

Work type : INSTALL SEWER/WATER/STORM

Done for : H AND H ENTERPRISE LLC

Start date: 07/17/2020 Time: 15:30 Hours notice: 48/48 Priority: NORM

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

Duration : N/A Depth: 4 FEET

Company : A&R CONSTRUCTION Type: CONT

Co addr : 130 STRINGTOWN RD

City : NEW HOPE State: KY Zip: 40052

Caller : BRANDON CHAPMAN Phone: (502)777-5149

Contact : BRANDON CHAPMAN - CELL Phone:

Mobile : (270)823-4822

Submitted date: 07/15/2020 Time: 15:11

Members: 0002 0139 0141

A & R Construction, LLC
130 Stringtown Road
New Hope, KENTUCKY 40052