

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DAVID SEALS)	
)	
_____)	CASE NO.
)	2021-00399
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

David Seals 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. Seals 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. Seals 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. Seals 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 53726 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. Seals 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
FEB 21 2022 rCS
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2021-00399

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00399 DATED FEB 21 2022

FOUR PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Eric V. Tout Incident Date 6/7/2021 9:30:00 AM	Incident ID 53726 Key 7714 Report Submitted 6/25/2021 4:26:05 PM
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OPERATOR INFORMATION

Operator Delta Natural Gas Company, Inc. Phone 859-744-6171 Ext. 1124 Incident Location 214 White Station Rd. Berea, KY 40403 Madison	Reported By Craig Mitchell Email cmitchell@deltagas.com Locate Ticket Number
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EXCAVATOR INFORMATION

Name of Excavator Seals, David Phone 859-200-1406 Excavator Address 214 White Station Rd Berea, KY 40403	Organization ID Email Locate Ticket Number
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Damage Report (DR) Summary

The Operator reports that the Excavator/Homeowner damaged a ¾ inch gas service, with a bobcat excavator, cleaning out a ditch and failed to call the KY Notification Center (811).

The DR is included as Attachment 1.

DR Summary

Excavation Within 18" (Approximate Location)	Gas / Hazardous Liquids		Type Of Equipment Used	Cost of Damage	Amount Billed
	Contained	Released			
No call to 811	Yes	Yes	Mechanized / Bobcat	\$69.00	\$69.00

INVESTIGATION

On 07/09/21 the Excavator/Homeowner, David Seals stated that he was cleaning out the silt in a creek bed and did not consider this would be determined excavation, therefore made no call to 811. Mr. Seals stated that the gas service was/is practically laying on top of the rock creek bed and when repairs to the service was made the gas service was not buried. Mr. Seals stated that he covered the service with dirt, but with the recent rains feels that if the service is not exposed, it will be soon. Mr. Seals stated that the gas representative on site informed him that the gas service would be buried at later date. Mr. Seals was receptive to attending the Damage Prevention course and paying the reduce penalty of \$100.00.

On 07/09/21 Mr. Seals's complaint regarding the exposed gas service was forwarded to the Commission's Inspection section for any action it may deem necessary.

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 1 st Offence Date (Last Offence Date +365 Days)
1 st	N/A	N/A	N/A

Attachment 1

Gas Excavation Damage Report

Delta Natural Gas Company, Inc.

Submitted 6/25/2021 Incident ID: 53726

[Set back to Edit](#)

[Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=53726\)](#)

Reported By:

Name: Craig Mitchell
Phone: 859-744-6171 Ext. 1124
Email: cmitchell@deltagas.com

Gas Line Incident Occured:

Date: 6/7/2021
Time: 9:30 AM

Details:

Reported Date: 6/25/2021 1:44 PM

Incident Location Address:

Location: 214 White Station Rd.
Address: 214 White Station Rd
City: Berea
State: KY
County: Madison
Zip: 40403
Confirm Code: Y

Number of Customers out: 1

Was gas or hazardous liquids contained in the underground facility?

Was gas or hazardous liquids released into the atmosphere? *

3/2020

Locate Request Ticket No.:

Excavator: Home Owner

Excavator Address:

First Name: David
Last Name: Seals
Phone: 859-200-1406
Email:
Address: 214 White Station Rd
City: Berea

State: KY
Zip: 40403
Confirm Code: Y
Excavation Damage: No notification made to the One Call Center

Description of Incident Mr. David Seals (Home Owner) was cleaning out a ditch line on his property with a bobcat when he inadvertently hit and completely severed an existing 3/4" plastic natural gas service line.

Summary Information

6/25/2021

Full details such as the cause Mr. David Seals (Home Owner) did not call KY-811 or Delta Natural Gas to request a line location prior to beginning his excavation activities of cleaning out a ditch line on his property with a bobcat. As a result, Mr. Seals did not know the location of the existing 3/4" plastic natural gas service line which ultimately resulted in Mr. Seals hitting and completely severing the service line with the bucket of the bobcat, thus resulting in the release of natural gas from the pipeline.

Extent of the damage There were no injuries or property damage attributed to this incident. Delta personnel replaced 3 feet of 3/4" plastic natural gas service line and installed (2) 3/4" permasert couplings in order to reconnect the service line and re-energize it before returning it to operation.

Cost of the damage \$69.00

Steps taken to prevent re-occurrence Mr. Seals was informed that anyone that is going to do any type of excavation work is required by law to call KY-811 and request a line location at least two days prior to beginning the work and, when excavation is necessary within a close proximity to the marked gas line (18" on each side of the mark), the law requires hand digging or the use of a non-intrusive means of excavation to expose the pipeline and thus avoid damage to the line.

Amount billed to excavator \$0.00

*David Seals
214 White Station Road
Berea, KENTUCKY 40403