

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ROBERT ILES D/B/A ILES BROTHERS ROOFING)	
_____)	
ALLEGED VIOLATION OF UNDERGROUND)	CASE NO.
FACILITY DAMAGE PREVENTION ACT)	2019-00445

OPENING ORDER

Robert Iles d/b/a Iles Brothers Roofing (Mr. Iles) 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. Iles 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. Iles 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. Iles shall submit to the Commission, at 211 Sower Boulevard, Frankfort, Kentucky 40601, 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 31536 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. Iles 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.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

By the Commission

Commissioner Talina Mathews did not participate in this case.



ATTEST:

A handwritten signature in blue ink, appearing to read "Owen R. Pender".

Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00445 DATED **DEC 20 2019**

SEVEN PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 31536
Incident Date 4/15/2019 11:10:00 AM	Report Submitted 5/6/2019 2:28:00 PM

OPERATOR INFORMATION

Operator Duke Energy Kentucky, Inc.	Reported By Laura Mate
Phone (513) 287-2594	Email Laura.Mate@duke-energy.com
Incident Location 77 Park Ave, Elsmere 77 Park Ave Elsmere, KY 41018 Kenton	Locate Ticket Number 1904082146

EXCAVATOR INFORMATION

Name of Excavator Douglas, Ricky	Organization ID
Phone 859-393-6510	Email ILESBROSROOFING@GMAIL.
Excavator Address Iles Brothers Roofing 811 Main St Elsmere, KY 41018	Locate Ticket Number

INCIDENT

Locate Ticket Summary						
Ticket #	Valid	Initial Date	Expiration Date (21 calendar days from Initial date)	Incident Date	# of Days Expired	Within Scope of Excavation
1904082146	Yes	4/8/19	4/29/19	4/15/19	N/A	Yes

Excavation Summary			
Excavation Within Tolerance Zone	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
Yes	Mechanized	\$670.00	\$670.00

The operator reports that Isles Brothers Roofing was replacing a retaining wall and struck an underground gas service line. Gas service was accurately marked, but was struck by a backhoe while the contractor was digging to replace a retaining wall for a driveway.

INVESTIGATION

Iles Brothers Roofing is not registered with the Secretary of State's office.

Google to BBB shows phone number of 859.640.1684.

Buildzoom has a number of 859.750.7692.

October 21, 2019

- Called 859.640.1684 – busy signal.
- Called 859.750.7692 – went to v.m. with no identification, left a message.
- Called 859.393.6510, left a v.m. for Ricky Douglas.
- Sent email to Iles Brothers Roofing.

November 6, 2019

- Called 859.393.6510 – spoke to Mr. Douglas, he acknowledged that they hit the line and were within the tolerance zone, but he doesn't work for the company anymore.
- Called 859.640.1684 – busy signal.
- Called 859.750.7692 - went to v.m. with no identification, left a message.
- Sent a second email to Iles Brothers Roofing.

November 13, 2019

- Called Robert Iles cell phone listed in the dig ticket: 859.640.1684 –busy signal.
- Called 859.750.7692 left a message that a demand letter with a \$1250 civil penalty was coming.

VIOLATION

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.

Gas Excavation Damage Report

Duke Energy Kentucky, Inc.

Submitted 5/6/2019 Incident ID: 31536

[Set back to Edit](#) [Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=31536\)](#)

Reported By:

Name: Laura Mate
Phone: (513) 287-2594
Email: Laura.Mate@duke-energy.com

Gas Line Incident Occured:

Date: 4/15/2019
Time: 11:10 AM

Details:

Reported Date: 5/6/2019 2:28 PM

Incident Location Address:

Location: 77 Park Ave, Elsmere
Address: 77 Park Ave
City: Elsmere
State: KY
County: Kenton
Zip: 41018
Confirm Code: Y
Number of Customers out: 1
Locate Request Ticket No.: 1904082146
Excavator: Contractor

Excavator Address:

First Name: Ricky
Last Name: Douglas
Organization ID:
Company: Isles Brothers Roofing
Phone: 859-393-6510
Email: ILESBROSROOFING@GMAIL.COM
Address: 811 Main St
City: Elsmere
State: KY
Zip: 41018

Confirm Code: Y

Excavation Damage: Failure to use hand tools where required

Description of Incident Isles Brothers Roofing was replacing a retaining wall and struck an underground gas service line.

Summary Information

5/6/2019

Full details such as the cause	Gas service was accurately marked, but was struck by a backhoe while the contractor was digging to replace a retaining wall for a driveway.
Extent of the damage	Gas service was damaged.
Cost of the damage	\$670.00
Steps taken to prevent re-occurrence	
Amount billed to excavator	\$670.00

NORMAL NOTICE

Ticket : 1904082146 Date: 04/08/2019 Time: 18:02 Oper: MFIELDS Chan:000

State: KY Cnty: KENTON City: ELSMERE
Subdivision:

Address : 77

Street : PARK AVE

Cross 1 : SWAN CIR

Location: FACING THE PROPERTY FORM THE ROAD LOCATE THE LEFT SIDE OF THE PROPERTY
:

Boundary: n 39.006118 s 39.001731 w -84.613059 e -84.608736

Work type : INSTALL RETANING WALL

Done for : ANNA DOLHANCRYK

Start date: 04/11/2019 Time: 07:00 Hours notice: 60/48 Priority: NORM

Ug/Oh/Both: U Blasting: NO

Emergency: N

Duration : N/A

Depth: 6 FEET

Company : Type: HOME

Co addr : 811 MAIN ST

City : ERLANGER State: KY Zip: 41018

Caller : ROBERT ILES Phone: (859)640-1684

Contact : ROBERT ILES -- CELL Phone:

Mobile : (859)640-1684

Email : ILESBROSROOFING@GMAIL.COM

Submitted date: 04/08/2019 Time: 18:02

Members: 0130 0416 0516

Gowins, John E (PSC)

From: Gowins, John E (PSC)
Sent: Monday, October 21, 2019 2:41 PM
To: ILESBROSROOFING@GMAIL.com
Subject: Incident # 31536

I am investigating a gas line incident that occurred at 77 Park Avenue, Elsmere on April 15, 2019.

Please contact me at the number listed below.

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

Gowins, John E (PSC)

From: Gowins, John E (PSC)
Sent: Wednesday, November 6, 2019 2:52 PM
To: ILESBROSROOFING@GMAIL.com
Subject: Incident # 31536

To Whom It May Concern,

I am investigating a gas line incident that occurred at 77 Park Avenue, Elsmere on April 15, 2019.

Please contact me at the number listed below.

This is my second email in an attempt to contact this company.

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

Robert Iles
811 Main Street
Elsmere, KENTUCKY 41018