

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION


In the Matter of:

TUNNELING AND GROUTING PLUS)
_____))
ALLEGED VIOLATION OF UNDERGROUND)
FACILITY DAMAGE PREVENTION ACT)

CASE NO.
2019-00408

NOTICE OF FILING

Notice is given to all parties that communication received by the Commission from Vernon Stapleton concerning Damage Incident No: 31481 has been filed into the record of this proceeding.



Gwen R. Pinson
Executive Director
Public Service Commission
P.O. Box 615
Frankfort, KY 40602

DATED DEC 09 2019

cc: Parties of Record

#31481

To Whom It May Concern,

Please see attached Executed Sub Contract Agreement stating that the General Contractor, B.P. Pipeline, LLC of 269 Peebles Lane, Quincy, KY 41166, is responsible for locating the utilities, etc. (Surveying/Grading of site). The General Contractor was responsible to dig up and expose the utility! It was B.P. Pipeline's decision not to expose the Utility, as the utility was supposedly on a higher elevation than it actually was. Also, please note that the violation was digging after the ticket was expired. B.P. Pipeline had to excavate the work pits prior to starting the bore, as the bore pits have to be completed to even begin boring underground. Thus the responsibility and obligation falls upon B.P. Pipeline to contact 8-1-1 every 21 days that the project continues, until its completion, to revalidate the Ticket and number. The violation was not that 8-1-1 had not been notified initially. Upon Investigation, it should have been noted that a Ticket number had been provided, along with a list of Utility Providers that were notified, but mainly whom this information was provided to. Who contacted 8-1-1 initially for this project (from B.P. Pipeline)? Furthermore, who did not follow through with validating at the 21 day time frame, who also had to dig the work pits for the Bore to even be started (B.P. Pipeline)? Upon B.P. Pipelines notification to 8-1-1, the Utility Providers should have been notified and came out to locate their utilities. If the utilities were not located, or the Utility Providers were not notified, this is not the fault of either Contractor or Sub Contractor, as that is why there is a "One Call Center." If the utilities were not marked after located, who is at fault for that? This would include if the utility was not properly located on the map.

Thank You,



Vernon Stapleton

**TUNNELING & GROUTING, PLUS
549 SILOAM LANE
SOUTH SHORE, KY 41175**

Cell: (606) 923-6056 Email: boring_tunneling_rentals@yahoo.com

SUB CONTRACT AGREEMENT

TO: BP Pipeline, LLC
838 Quincy Rd, Quincy, KY 41166
Ph & F: (606) 757-2070 & 2055
Email: [REDACTED]

REF: Horizontal Boring Project – City of Mt. Washington

OWNER: City of Mt. Washington


ENGNR: KY Engineering Group, PLLC

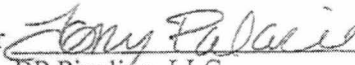
Date: Mar. 6, 2019

Item	Description	Amount
1.	Install 16" Diam. Pipe Casing -----Dirt-----	\$120.00 per LF.
	a. 5 bores for a total of 290 LF.	
	b. Dirt Total - \$34,800.00.	
2.	Install 24" Diam. Pipe Casing -----Dirt-----	\$150.00 per LF.
	a. 9 bores for a total of 336 LF.	
	b. Dirt Total - 50,400.00.	

Note: General Contractor to provide for safety: operator/supervisor for project, Handle surveying/grading requirements for project, dewatering for dry work conditions, work pits, support structures for equipment, and unit to handle our heavy equipment, spoils, etc. for duration of project. Rock Soil Conditions will be double the Dirt Price per LF. Soil Conditions greater than 10,000 PSI will be negotiated for pricing.

Signatures:

Vernon Stapleton, Owner 
Sub-Contractor – Tunneling & Grouting, Plus

Tony Palarie, Owner 
General Contractor – BP Pipeline, LLC



a PPL company

VIA FIRST CLASS U.S. MAIL

Tunneling and Grouting Plus
549 Siloam Ln
South Shore, KY 41175

April 11, 2019

Damage to LG&E's Underground Facilities

Dear Sir/Madam:

At LG&E, safety is our number one priority and we do everything possible to maintain the safety of our employees, business partners and the public. We recently discovered you were involved in excavation activity that resulted in damage to our underground facilities. From the initial investigation it appears you were in violation of one or more of the items checked below.

PROPERTY ADDRESS: 989 Bardstown Rd / Mt Washington, KY	
EXCAVATION PRACTICES NOT SUFFICIENT	
<input type="checkbox"/>	Failure to maintain clearance after verifying marks
<input type="checkbox"/>	Failure to maintain the marks (marks faded or lost)
<input type="checkbox"/>	Failure to support exposed facilities
<input type="checkbox"/>	Failure to use hand tools within tolerance zone
<input type="checkbox"/>	Improper backfilling
<input type="checkbox"/>	Dug outside area described on ticket
<input type="checkbox"/>	Dug prior to valid start date/time
<input checked="" type="checkbox"/>	Dug after valid ticket had expired
<input type="checkbox"/>	Other improper excavation practice not listed above
ONE CALL NOTIFICATION PRACTICES NOT SUFFICIENT	
<input type="checkbox"/>	No notification made to one-call center (8-1-1)
<input type="checkbox"/>	Provided incorrect notification information

Kentucky Revised Statute 367.4901-4917 states that any business or individual who excavates in Kentucky is required to contact the owners of buried utility lines at least two days before excavation begins so the lines can be properly

Louisville Gas and
Electric Company
Gas Regulatory
6900 Enterprise Drive
PO Box 32010
Louisville, KY 40232
www.lge-ku.com

Mike Jones, Grp Leader
Gas Regulatory
T 502-364-8281
Mike.Jones@lge-ku.com

located and marked.

In the future, contact Kentucky 811 by dialing 8-1-1 at least two days before ^{4 B.P. Pipeline} digging or otherwise starting an excavation project. Kentucky 811 will notify LG&E and other member utilities of the need to mark the locations of their buried utility lines. All of this will be done at no charge to you. Businesses and individuals who dig and do not call Kentucky 811 are in violation of Kentucky law and may be subject to fines or penalties. In addition, they are endangering the safety of the public, their employees and LG&E's personnel. Digging or excavating that results in damage to LG&E's underground facilities may prompt us to pursue legal action and/or make a report to applicable regulatory authorities.

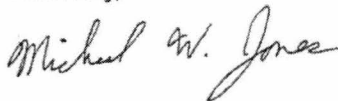
To aid in the prevention of future damage, our Damage Prevention Coordinators, Tracy Reesor or Neal Miller, will be arranging a meeting with you and your workforce to discuss working safely near underground utilities.

Damage Prevention Councils have been formed throughout the Commonwealth in an effort to raise awareness about safe excavation practices and serve as a resource to help address damage prevention issues. You are invited to attend a Damage Prevention Council meeting near you. More information can be found at <http://kentucky811.org/river-cities-dpc> or by contacting rivercitiesdpc@gmail.com.

We also urge you to continue reporting any damage that occurs to LG&E's underground facilities as a result of any work you perform. This includes cut tracer wire and nicked, dented, scraped, gouged or cut pipe or pipe coating. Given the potential dangers associated with this type of damage, our crews will respond immediately to make the necessary repairs. Your assistance is greatly appreciated.

If you have any questions, please contact Lisa Clifton at 502-364-8312 or me at 502-364-8281. Thank you for your cooperation.

Sincerely,



Mike Jones



a PPL company

LOUISVILLE GAS & ELECTRIC
ATTN: CASH REMITTANCE
820 WEST BROADWAY
LOUISVILLE, KY 40202
United States

TUNNELING & GROUTING PLUS
549 SILOAM LANE
SOUTH SHORE, KY 41175
United States

SEPTEMBER 24, 2019

Invoice Number	Invoice Date	Due Date	Days Late	Invoice Amount	Balance Due
2019050307	06/24/2019	07/24/2019	62	24,429.61	24,429.61

Total : \$24,429.61

Our records indicate that there were damages to our facilities caused by you that are still unpaid.

Please remit your payment in the enclosed envelope within 15 days from the date of this letter to avoid further collection action, which may include listing this debt with a collection agency or referral to our Legal Department.

Please contact us immediately with any questions or concerns regarding this invoice.

Sincerely,

Kay Payne 859-367-5303
Glenda Jackson 859-367-5572
Revenue Collections



Matthew G. Bevin
Governor

Charles G. Snively
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Michael J. Schmitt
Chairman

Robert Cicero
Vice Chairman

Talina R. Mathews
Commissioner

September 19, 2019

Vern Stapleton
d/b/a Tunneling & Grouting Plus
549 Siloam Ln
South Shore, KY 41175

Re: Violation of Kentucky Underground Facility Damage Prevention Act
Incident Number: 31481

DEMAND FOR PENALTY ASSESSMENT

Dear Mr. Stapleton:

The Kentucky Public Service Commission (Commission) received a report on April 18, 2019, regarding damage to a natural gas or hazardous liquid facility owned and/or operated by the Louisville Gas and Electric Company. Under the Kentucky Underground Facility Damage Prevention Act (Act), KRS 367.4901 through KRS 367.4917, the Commission has jurisdiction to investigate and assess civil penalties for any violation of the Act that results in excavation damage to underground facilities used to transport gas or hazardous liquid subject to federal pipeline safety laws, 49 U.S.C. secs. 60101 et seq. The Commission regulates the safety of jurisdictional natural gas pipelines in the Commonwealth pursuant to KRS 278.495 and 49 CFR Parts 190, 191, 192 and 195.

Following receipt of the damage notification, Commission Staff (Staff) performed an investigation of the incident and prepared the attached incident report. Based on its investigation of the incident, Staff has determined that Vern Stapleton d/b/a Tunneling and Grouting Plus committed the following violation(s) 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 (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.

CIVIL PENALTY

KRS 367.4917 provides that a person who commits a violation of the Act shall be subject to a civil penalty not to exceed \$250 for the first violation, \$1,000 for the second violation within one year, and \$3,000 for the third and any subsequent violation. If the violation results in damage to an underground pipeline used to transport gas or hazardous liquid, the violator is subject to an additional civil penalty not to exceed \$1,000 per violation. Based on its investigation of this matter, Staff has determined that you should be assessed a civil penalty in the total amount of \$1,250 for failing to comply with KRS 367.4911, first offense.

September 19, 2019
Page 2 of 2

If you do not wish to contest the proposed penalty, you should mail or deliver a cashier's check or money order made payable to the "**Kentucky State Treasurer**", within 30 days of the date of this letter, to:

Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

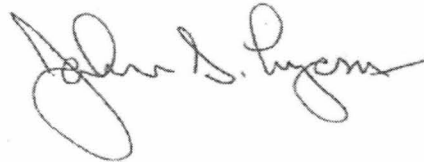
Please include the Incident Number 31481 on the cashier's check or money order submitted for payment.

Payment of the proposed civil penalty will satisfy and resolve any and all claims against you for any violation of the Act, arising out of the March 22, 2019 incident. Your payment of the proposed civil penalty will not be considered an admission by you that you willfully violated any provision of the Act.

If you do not pay the proposed civil penalty within 30 days of the date of this letter, the Commission will institute an administrative proceeding against you and hold a formal hearing during which you will have an opportunity to present evidence and show cause why you should not be assessed penalties under KRS 367.4917 as a result of the March 22, 2019 incident.

If you have any questions regarding this demand for penalty assessment, please contact John E. Gowins, Division of Inspections at 502-782-2656.

Sincerely,



John S. Lyons
Deputy Executive Director
Kentucky Public Service Commission

Attachment

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 31481
Incident Date 3/22/2019 2:08:00 PM	Report Submitted 4/18/2019 2:02:27 PM

OPERATOR INFORMATION

Operator Louisville Gas and Electric Company	Reported By Mike Jones
Phone (502) 364-8281	Email Mike.Jones@lge-KU.com
Incident Location 941 Bardstown Rd. Mt. Washington, KY 40047	Locate Ticket Number 1902261232
Bullitt	

EXCAVATOR INFORMATION

Name of Excavator Potter, Glen	Organization ID
Phone 606-316-2630	Email
Excavator Address Tunneling and Grouting Plus 549 Siloam Ln South Shore, KY 41175	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
1902261232	No	2/26/19	3/19/19	3/22/19	3	Yes

Excavation Summary			
Excavation Within Tolerance Zone	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
Yes	Mechanized	\$0.00	\$0.00

The operator reports that the excavator was boring across road to install water main and damaged accurately marked 4" steel gas main. Excavator potholed the marks in the grass about 25 ft. from where he was boring under intersection. Contractor said he spotted main at 51" and bored lower

At this point the decision was made to send the company a demand letter.

*Owner,
Engineer, - Plan
Gen. Contractor
8-1-1 → local*

VIOLATION

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B.P. Pipeline

than that to avoid damaging the main. LG&E crews exposed damage and found main to be at 60". Contractor is working for BP Pipeline and working off of their expired ticket. Ticket was 24 days old.

INVESTIGATION

Tunneling & Grouting Plus is not registered with the Secretary of State's office.

Google phone number is: 606.923.6056.

August 30, 2019 called Google number, person answered, said her dad, Vern Stapleton was the company owner, and that I needed to talk to him. Left my name and number.

September 11, 2019 called the Google number again, spoke to the same person as above. She said that her dad was out of the country and would call me when he got back. I asked if she knew ~~it would be, and she said he would have him call me when he got back, and then she~~ abruptly ended the call.

At this point the decision was made to send the company a demand letter.

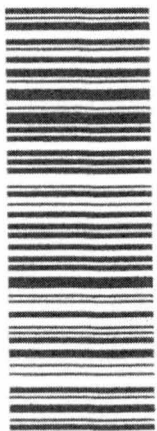
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Vernon Stapleton
549 Siloam Ln
41175

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Barn Swallow

Kentucky Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

Vernon Stapleton
549 Siloam Lane
South Shore, KENTUCKY 41175