

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CARTER DOUGLAS COMPANY, LLC)	
)	
_____)	CASE NO.
)	2019-00415
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

Carter Douglas Company, LLC (Carter Douglas) 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 Carter Douglas for violation of the following provisions of the Act:

KRS 367.4911(2) – Locate requests are valid for twenty-one (21) calendar days from the day of the initial request.

and

KRS 367.4911(6) – The excavator shall protect and preserve temporary underground facility markers until the scheduled excavation or demolition is complete.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that Carter Douglas 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:

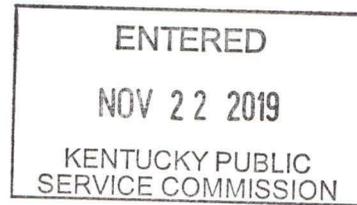
1. Carter Douglas shall submit to the Commission a written response to the allegations contained in the Staff Incident Report within 20 days of receipt of this Order.
2. Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed 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 21084 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 Carter Douglas 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.

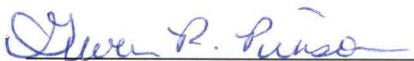
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By the Commission

Commissioner Talina Mathews did not participate in this case.



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00415 DATED **NOV 22 2019**

TEN PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Eric V. Tout	Incident ID 21084
Incident Date 10/19/2018 2:15:00 PM	Report Submitted 10/29/2018 8:08:52 AM

OPERATOR INFORMATION

Operator Atmos Energy Corporation Phone (270) 779-4849 Incident Location Bowling Green 428 Dishman Ln Bowling Green, KY 42101 Warren	Reported By Anthony Stallins Email anthony.stallins@atmosenergy. Locate Ticket Number N/A
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EXCAVATOR INFORMATION

Name of Excavator Shoulders, Joey Phone 270-725-8788/270-847-9763 Excavator Address Carter Douglas Company 109 Robins Way Russellville, KY 42276	Organization ID 0657729 Email joey@carterdouglas.com Locate Ticket Number
--	--

Incident

The Operator reports the Excavator was installing a storm drain with a track hoe and damaged a 3/4" services. Locate Tickets 1809261284 dated 09/26/18 and 1810220240 dated 10/22/18 were obtained. The first was expired and the second was obtained after the damages occurred on 10/19/18. The area was located on the first ticket, however due to heavy excavation traffic locate marks were not visible.

Investigation

A review of the above stated Locate Tickets revealed that the Carter Douglas Company obtained Locate Ticket 1809261284 on 09/26/18 with an expiration date of 10/16/18 indicating said ticket expired approximately three days prior to the Incident Date of 10/19/18. Locate Ticket 1810220240 was obtained on 10/22/18 three days post the Incident Date of 10/19/18.

On 06/03/19 attempts to contact the Carter Douglas Co. resulted in messages being left at 270-847-9763 and 918-267-9001 ext. one, Wayne Cates, with no return call.

On 06/06/19 attempts to contact the Carter Douglas Co. at 918-267-9001 ext. two resulted in speaking to Will Salmon whom stated that he no longer was with the Company and was unable to provide additional information.

On 06/06/19 contact was made with Matt Alsept at 918-267-9001 extension three whom stated that the Kentucky office was closed, he was no longer with the Company and the Oklahoma

office should be contacted.

On 06/06/19 contact was made with Joey Shoulders 918-267-9001 extension four whom stated he was no longer with the Company, but knew of the above incident. Mr. Shoulders stated that the gas line was damaged the day before with a track hoe and discovered the next day. Mr. Shoulders stated that he was unaware that the Locate Ticket was expired. Mr. Shoulders provided the owner, Wayne Cates's, phone number, 270-221-5556.

On 06/06/19 an attempt to contact Mr. Cates (270-221-5556) resulted in a voice mail message being left.

On 06/06/19 Mr. Cates made contact leaving a message to contact him through email, wayne@carterdouglas.com.

On 06/07/19 an email was sent to Mr. Cates requesting a response to the above incident.

On 06/11/19 Mr. Cates, via email, stated that he would have to look into the dates, the Carter Douglas Co. has been shut down and any mailings should be sent to 109 Robins Way Russellville, KY 42276.

On 06/18/19 Mr. Cates was sent a follow-up email. Mr. Cates advised, "Have not looked at dates but like I said before carter douglas company has been shut down (sic)"

Violation

KRS 367.4911(2) Locate requests are valid for twenty-one (21) calendar days from the day of the initial request.

NORMAL NOTICE

Ticket : 1809261284 Date: 09/26/2018 Time: 13:54 Oper: LCARTER Chan:000

State: KY Cnty: WARREN City: BOWLING GREEN
Subdivision:

Address : 428
Street : DISHMAN LN
Cross 1 : NASHVILLE RD
Location: LOCATE THE ENTIRE PROPERTY INSIDE THE CHAIN LINK FENCE
:
Boundary: n 36.955867 s 36.951512 w -86.481913 e -86.474438

Work type : INSTALLING UTILITY LINES
Done for : JOHNSON PROPERTIES
Start date: 09/28/2018 Time: 14:15 Hours notice: 48/48 Priority: NORM
Ug/Oh/Both: U Blasting: NO Emergency: N
Duration : N/A Depth: 8 FEET

Company : CARTER DOUGLAS COMPANY Type: CONT
Co addr : 109 ROBINS WAY
City : RUSSELLVILLE State: KY Zip: 42276
Caller : WILL SANDLIN Phone: (270)847-9763
Contact : WILL SANDLIN - CELL Phone:
Mobile : (270)847-9763
Fax : (270)725-8014
Email : WILL@CARTERDOUGLAS.COM

Submitted date: 09/26/2018 Time: 13:54
Members: 0115 0125 0136 0139 0253 0288

NORMAL NOTICE

Ticket : 1810220240 Date: 10/22/2018 Time: 08:37 Oper: AHESTER Chan:000

State: KY Cnty: WARREN City: BOWLING GREEN
Subdivision:

Address : 428
Street : DISHMAN LN
Cross 1 : NASHVILLE RD
Location: LOCATE THE ENTIRE PROPERTY INSIDE THE CHAIN LINK FENCE
:
Boundary: n 36.955867 s 36.951512 w -86.481913 e -86.474438

Work type : INSTALLING UTILITY LINES
Done for : JOHNSON PROPERTIES
Start date: 10/24/2018 Time: 08:45 Hours notice: 48/48 Priority: NORM
Ug/Oh/Both: U Blasting: NO Emergency: N
Duration : N/A Depth: 8 FEET

Company : CARTER DOUGLAS COMPANY Type: CONT
Co addr : 109 ROBINS WAY
City : RUSSELLVILLE State: KY Zip: 42276
Caller : JOEY SHOULDERS Phone: (270)847-9763
Contact : JOEY SHOULDERS - CELL Phone:
Mobile : (270)847-3819
Fax : (270)725-8014
Email : JOEY@CARTERDOUGLAS.COM

Submitted date: 10/22/2018 Time: 08:37
Members: 0115 0125 0136 0139 0253 0288

Tout, Eric V (PSC)

From: Wayne Cates <wayne@carterdouglas.com>
Sent: Tuesday, June 18, 2019 1:53 PM
To: Tout, Eric V (PSC)
Subject: RE: Damage Report: 21084, Incident Location: 428 Dishman Ln. Bowling Green, Incident Date: 10/19/2018 2:15:00 PM

Have not looked at dates but like I said before carter douglas company has been shut down

Thanks

Wayne Cates
Carter Douglas
*****Jesus Christ is Lord*****
Office Phone 918-267-9001
Office Fax 918-267-9003
Cell: 270-221-5556

CONFIDENTIALITY NOTICE: This message, including attachments, is confidential and may be privileged.
If you are not an intended recipient, please notify the sender then delete and destroy the original message and all copies. You should not copy, forward and/or disclose this message, in whole or in part, without permission of the sender.

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Tuesday, June 18, 2019 8:14 AM
To: Wayne Cates <wayne@carterdouglas.com>
Subject: RE: Damage Report: 21084, Incident Location: 428 Dishman Ln. Bowling Green, Incident Date: 10/19/2018 2:15:00 PM

Mr. Cates,

Have you had the opportunity to look into the dates? Please advise if the terms below regarding the Damage Prevention course and Penalty are agreeable.

Thanks
Eric.

From: Wayne Cates <wayne@carterdouglas.com>
Sent: Tuesday, June 11, 2019 5:04 PM
To: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Subject: Re: Damage Report: 21084, Incident Location: 428 Dishman Ln. Bowling Green, Incident Date: 10/19/2018 2:15:00 PM

I would have to look into the dates. But Carter Douglas company has been shut completely down.

Mailing address is 109 Robinsway russellville ky 42276.

sent from android
Thanks
Wayne Cates
Carter Douglas
*****Jesus Christ is Lord*****
Office Phone 918-267-9001

Office Fax 918-267-9003

Cell: 270-221-5556

CONFIDENTIALITY NOTICE: This message, including attachments, is confidential and may be privileged. If you are not an intended recipient, please notify the sender then delete and destroy the original message and all copies. You should not copy, forward and/or disclose this message, in whole or in part, without permission of the sender.

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>

Sent: Friday, June 7, 2019 8:48:00 AM

To: Wayne Cates

Subject: Damage Report: 21084, Incident Location: 428 Dishman Ln. Bowling Green, Incident Date: 10/19/2018 2:15:00 PM

Mr. Case:

The above noted Damage Report indicates:

The Carter Douglas Co. was installing a storm drain with a track hoe and damaged a 3/4" services. Locate Tickets 1809261284 dated 09/26/18 and 1810220240 dated 10/22/18 were obtained. The first was expired and the second was obtained after the damages occurred on 10/19/18. The area was located on the first ticket, however due to heavy excavation traffic locate marks were not visible.

The above allegations indicate violations may have occurred involving KRS 367.4911, (2) Locate requests are valid for twenty-one (21) calendar days from the day of the initial request and (6) The excavator shall protect and preserve temporary underground facility markers until the scheduled excavation or demolition is completed.

This alleged violation of KRS 367.4911 (2) & (6) imposes a penalty of \$1,250.00 for the first offense, but \$1,000 of the penalty may be suspended contingent upon completion of the KY Public Service Commission's Damage Prevention Course.

If you do not agree with the above allegation that a violation occurred please provide supporting documentation/evidence that the Carter Douglas Co. was in compliance with KRS 367.4911 (2) & (6).

If you agree that the Carter Douglas Co. is in violation of KRS 367.4911 the KY Public Service Commission will mail a Demand Letter requesting payment of the penalty of \$250.00 and the date the Damage Prevention course will be held. If you chose not to attend the Damage Prevention course the full penalty of \$1,250.00 will be imposed.

Please provide your response regarding this matter and confirm that the correct mailing address is 2705 North 197 Road, Beggs, OK, 74421.

Respectfully,
Eric V. Tout, Investigator
Division of Inspections
Kentucky Public Services Commission
211 Sower Blvd.
Frankfort, KY 40601
Ph: 502-782-2622
Fax: 502-564-1582

Gas Excavation Damage Report

Atmos Energy Corporation

Submitted 11/13/2018 Incident ID: 21084

[Set back to Edit](#) [Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=21084\)](#)

Reported By:

Name: Anthony Stallins
Phone: (270) 779-4849
Email: anthony.stallins@atmosenergy.com

Gas Line Incident Occured:

Date: 10/19/2018
Time: 2:15 PM

Details:

Reported Date: 10/29/2018 8:08 AM

Incident Location Address:

Location: Bowling Green
Address: 428 Dishman Ln
City: Bowling Green
State: KY
County: Warren
Zip: 42101

Confirm Code:

Number of Customers out: 1

Locate Request Ticket No.: N/A

Excavator: Contractor

Excavator Address:

First Name: Joey
Last Name: Shoulders
Organization ID: 0657729
Company: Carter Douglas Company
Phone: 270-725-8788/270-847-9763
Email: joey@carterdouglas.com
Address: 109 Robins Way
City: Russellville
State: KY
Zip: 42276

Confirm Code:

Excavation Damage: No notification made to the One Call Center

Description of Incident Cut 3/4" PE. EFV worked properly, shutting off gas. No injuries. Expired Locate Ticket.

Summary Information

11/13/2018

Full details such as the cause	Carter Douglas Company hit a 3/4" PE service at 428 Dishman Ln installing a storm drain. Excavator locate ticket was expired. First locate ticket (1809261284) was called in on 9/26/18. Excavator called in another ticket on 10/22/18 (1810220240). Damage occurred on 10/19/18. Area was located on first ticket, however, heavy excavation traffic and marks not visible. Service cut with a trackhoe.
Extent of the damage	Damage repaired with 2 EF couplings and new PE.
Cost of the damage	\$281.00
Steps taken to prevent re-occurrence	Advised excavator of the need to keep tickets current and marks refreshed. Will invite to the next Atmos Energy Damage Prevention/KY 811 Dig Law Training in Bowling Green.
Amount billed to excavator	\$281.00



RECEIVED

JUL 11 2019

PUBLIC SERVICE
COMMISSION

7-3-19

We have enclosed a check for \$250.00. CDC has been completely shut down so we have no one to go to a training and we are not able to pay the \$1,000.00. So if you can't accept this \$250.00 in full then I'm not sure what else we can do.

Wayne Cates



(888) 272-8866

Cashier's Check

Date: 7/02/19

233347

Branch: 0003

REMITTER

CARTER DOUGLAS
2705 N 197 RD
BEGGS, OK 74421

**PAY
TO THE**

EXACTLY **250 AND 00/100 DOLLARS

\$250.00

ORDER OF COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

NOTICE TO CUSTOMER: IN THE EVENT THIS ITEM IS LOST, STOLEN OR DESTROYED IT IS NOT
SUBJECT TO REPLACEMENT PRIOR TO THE 90TH DAY FOLLOWING THE DATE OF THE CHECK.

Christy Jones
BANK AUTHORIZED SIGNER

Jennifer Cates
2705 N. 197 Road
, OKLAHOMA 74421

*Wayne Cates
1229 Herndon Road
Russellville, KENTUCKY 42276