

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

VERNON STAPLETON D/B/A/ TUNNELING AND )  
GROUTING PLUS )

\_\_\_\_\_ )

ALLEGED VIOLATION OF UNDERGROUND )  
FACILITY DAMAGE PREVENTION ACT )

CASE NO.  
2020-00002

OPENING ORDER

Vernon Stapleton d/b/a Tunneling and Grouting Plus (Mr. Stapleton) 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).<sup>1</sup>

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

<sup>1</sup> KRS 367.4901 through KRS 367.4917.

results in damage to an underground facility containing any flammable, toxic, corrosive, 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. Stapleton 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.

and

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. Stapleton 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. Stapleton 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.

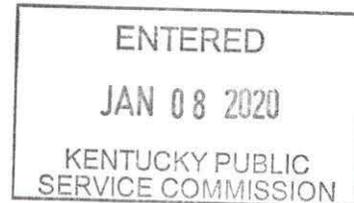
2. Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.

3. The Staff Incident Report 31481 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. Stapleton 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.**

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. 2020-00002 DATED **JAN 08 2020**

NINE PAGES TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

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

## OPERATOR INFORMATION

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

## EXCAVATOR INFORMATION

<b>Name of Excavator</b> Potter, Glen	<b>Organization ID</b>
<b>Phone</b> 606-316-2630	<b>Email</b>
<b>Excavator Address</b> Tunneling and Grouting Plus 549 Siloam Ln South Shore, KY 41175	<b>Locate Ticket Number</b>

## 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

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 when that would be, and she said she 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.

### **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.

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.

# SUPPLEMENTAL PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

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

## OPERATOR INFORMATION

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

## EXCAVATOR INFORMATION

<b>Name of Excavator</b> Potter, Glen	<b>Organization ID</b>
<b>Phone</b> 606-316-2630	<b>Email</b>
<b>Excavator Address</b> Tunneling and Grouting Plus 549 Siloam Ln South Shore, KY 41175	<b>Locate Ticket Number</b>

## SUPPLEMENTAL INVESTIGATION

October 23, 2019 upon direction of counsel, I called the above number listed below the name Glen Potter. It went to the voicemail for Vernon Stapleton. I did not leave a message. I also called the number listed in the dig ticket for Tony Palarie 606.757.2055 and left a v.m.

# Gas Excavation Damage Report

## Louisville Gas and Electric Company

Submitted 4/18/2019 Incident ID: 31481

[Set back to Edit](#)

[Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=31481\)](#)

### Reported By:

---

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

### Gas Line Incident Occured:

---

**Date:** 3/22/2019  
**Time:** 2:08 PM

### Details:

---

**Reported Date:** 4/18/2019 2:02 PM

### Incident Location Address:

---

**Location:**  
**Address:** 941 Bardstown Rd.  
**City:** Mt. Washington  
**State:** KY  
**County:** Bullitt  
**Zip:** 40047

**Confirm Code:**

**Number of Customers out:** 0

**Locate Request Ticket No.:** 1902261232

**Excavator:** Contractor

### Excavator Address:

---

**First Name:** Glen  
**Last Name:** Potter  
**Organization ID:**  
**Company:** Tunneling and Grouting Plus  
**Phone:** 606-316-2630  
**Email:**  
**Address:** 549 Siloam Ln  
**City:** South Shore  
**State:** KY  
**Zip:** 41175

Confirm Code: Y

Excavation Damage: Failure to maintain clearance

Description of Incident ?Excavator damaged 4" gas main while boring across road

## Summary Information

4/18/2019

<b>Full details such as the cause</b>	Excavator boring across road to install water main 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 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.
<b>Extent of the damage</b>	4" steel gas main
<b>Cost of the damage</b>	\$0.00
<b>Steps taken to prevent re-occurrence</b>	Educated excavator about maintaining clearance and elevation changes to gas facilities; provided 811 brochures and explained dig law; gave damage prevention sun visor; LG&E to send letter
<b>Amount billed to excavator</b>	\$0.00

NORMAL NOTICE

Ticket : 1902261232 Date: 02/26/2019 Time: 14:38 Oper: EHILL Chan:000

State: KY Cnty: BULLITT City: MOUNT WASHINGTON  
Subdivision:

Address :

Street : N BARDSTOWN RD

Cross 1 : LANDIS LN

Location: FROM THE INTERSECTION - LOCATE GOING SOUTH 2000 FEET ON BOTH SIDES OF  
THE ROAD - RIGHT OF WAY TO RIGHT OF WAY

:

Boundary: n 38.063547 s 38.057195 w -85.552828 e -85.549079

Work type : INSTALLING WATER LINES

Done for : MOUNT WASHINGTON WATER AND SEWER

Start date: 02/28/2019 Time: 15:00 Hours notice: 48/48 Priority: NORM

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

Duration : N/A Depth: 5 FEET

Company : BP PIPELINE Type: MEMB

Co addr : 269 PEBBLES LANE

City : QUINCY State: KY Zip: 41166

Caller : TONY PALARIE Phone: (606)757-2055

Contact : TONY PALARIE - CELL Phone:

Mobile : (606)541-1901

Fax : (606)757-2055

Email : PALARIE@EKNS.NET

Submitted date: 02/26/2019 Time: 14:38

Members: 0002 0007 0054 0139 WINKY







Vernon Stapleton  
512 Bourbon Court  
Lloyd, KENTUCKY 41144

Vernon Stapleton  
549 Siloam Lane  
South Shore, KENTUCKY 41175

\*Vernon Stapleton  
549 Siloam Lane  
South Shore, KENTUCKY 41175