

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|----------------------------------|---|------------|
| SHOWTIME CONSTRUCTION LLC |) | |
| |) | |
| _____ |) | CASE NO. |
| |) | 2021-00080 |
| ALLEGED VIOLATION OF UNDERGROUND |) | |
| FACILITY DAMAGE PREVENTION ACT |) | |

OPENING ORDER

Showtime Construction LLC (Showtime Construction) 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 Showtime Construction 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 Showtime Construction 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. Showtime Construction 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. The Staff Incident Report 31938 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 Showtime Construction 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



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00080 DATED MAR 01 2021

ELEVEN PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

| | |
|--|--|
| KY PSC Investigator(s) John E. Gowins | Incident ID 31938 |
| Incident Date 7/30/2019 6:53:00 AM | Report Submitted 8/28/2019 9:38:00 AM |

OPERATOR INFORMATION

| | |
|---|------------------------------------|
| Operator Louisville Gas and Electric Company | Reported By Mike Jones |
| Phone (502) 364-8281 | Email Mike.Jones@lge-KU.com |
| Incident Location 6206 Oak Valley Dr Louisville, KY 40214 Jefferson | Locate Ticket Number NA |

EXCAVATOR INFORMATION

| | |
|--|--------------------------------|
| Name of Excavator Arnold, Nate | Organization ID 1048333 |
| Phone 502-753-9727 | Email |
| Excavator Address Showtime Construction LLC 2502 Delores Dr Louisville, KY 40216 | 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 |
| None | Yes / No / N/A | N/A | N/A | N/A | N/A | Yes / No / N/A |

| Excavation Summary | | | |
|----------------------------------|----------------------------------|----------------------------------|------------------------------|
| Excavation Within Tolerance Zone | Type Of Equipment Used | Cost of Damage (Per Operator) | Amount Billed (Excavator) |
| Yes / No / N/A | Mechanized / Non-mechanized /N/A | \$0.00 | \$0.00 |

The operator reports that the contractor damaged unmarked 1/2" plastic customer service with mini-trackhoe. No valid ticket for area.

INVESTIGATION

This would be the company's first violation.

Reverse phone lookup verifies the above number is for Nathaniel Arnold, who incorporated the company according to the Secretary of State's office.

April 7, 2020

- Called 502.753.9727, left a v.m.
- Mr. Arnold called back, he claimed he had a dig ticket and the marks were off by 24 inches. He will look to see if he can find pictures and dig ticket number.
- Sent Mike Jones with LG&E an email requesting any additional documentation.
- Requested any and all dig tickets for that location near that timeframe.

April 15, 2020

- Called 502.753.9727, left a v.m.

April 22, 2020

- Called 502.753.9727, Mr. Arnold claimed he had pictures and sent them to me. I looked in all of my emails and didn't find it. I asked that they send them again, and gave my email address again.
- Sent Mr. Arnold an email w/the three options for resolution.
- Mr. Arnold called and left a v.m., asking I call him back at 502.753.9727.

April 23, 2020

- Called Mr. Arnold back, he agreed to the reduced penalty and remedial measure.

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.

Gas Excavation Damage Report

Louisville Gas and Electric Company

Submitted 8/28/2019 Incident ID: 31938

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=31938\)](#)

Reported By:

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

Gas Line Incident Occured:

Date: 7/30/2019
Time: 6:53 AM

Details:

Reported Date: 8/28/2019 9:38 AM

Incident Location Address:

Location:

Address: 6206 Oak Valley Dr
City: Louisville
State: KY
County: Jefferson
Zip: 40214
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.: NA

Excavator: Contractor

Excavator Address:

First Name: Nate
Last Name: Arnold
Organization ID:
Company: Showtime Construction
Phone: 502-753-9727
Email:

Address: 2502 Delores Dr
City: Louisville
State: KY
Zip: 40216
Confirm Code: Y
Excavation Damage: No notification made to the One
Call Center

Description of Incident ?Excavator digging without locates.

Summary Information

8/28/2019

Full details such as the cause Contractor damaged unmarked 1/2" plastic customer service with mini-trackhoe. No valid ticket for area.
Extent of the damage 1/2" plastic service
Cost of the damage \$669.00
Steps taken to prevent re-occurrence I left a Know Whats Below Brochure on his excavator. We also discussed each excavator having a valid locate request.
Amount billed to excavator \$0.00

Showtime Construction LLC

General Information

| | |
|-----------------------------|---|
| Organization Number | 1048333 |
| Name | Showtime Construction LLC |
| Profit or Non-Profit | P - Profit |
| Company Type | KLC - Kentucky Limited Liability Company |
| Status | A - Active |
| Standing | G - Good |
| State | KY |
| Country | USA |
| File Date | 2/13/2019 1:24:02 PM |
| Organization Date | 2/13/2019 |
| Last Annual Report | N/A |
| Principal Office | 2502 Delores Dr Louisville, KY 40216 |
| Managed By | Members |
| Registered Agent | Nathaniel Arnold 2502 Delores Dr Louisville, KY 40216 |

Current Officers

Individuals / Entities listed at time of formation

| | |
|-------------------------|----------------------------------|
| Organizer | Nathaniel Arnold |
| Registered Agent | Nathaniel Arnold |

Images available online

Documents filed with the Office of the Secretary of State on September 15, 2004 or thereafter are available as scanned images or PDF documents. Documents filed prior to September 15, 2004 will become available as the images are created.

| | | | |
|--|----------------------|--------|---------------------|
| Articles of Organization | 2/13/2019 1:24:07 PM | 1 page | PDF |
|--|----------------------|--------|---------------------|

Assumed Names

Activity History

| Filing | File Date | Effective Date | Org. Referenced |
|--------|----------------------|----------------------|-----------------|
| Add | 2/13/2019 1:24:02 PM | 2/13/2019 1:24:02 PM | |

Microfilmed Images

Gowins, John E (PSC)

From: Jones, Mike (Auburndale) <Mike.Jones@lge-ku.com>
Sent: Tuesday, April 7, 2020 11:11 AM
To: Gowins, John E (PSC)
Subject: RE: Incident # 31938
Attachments: DigTix Incident INC-20190730-001 2019-07-30 08_54_25.694.jpg; DigTix Incident INC-20190730-001 2019-07-30 08_52_39.958.jpg

I found 1 ticket at 6206 Oak Valley Drive called in by Nathaniel Arnold. The ticket number is 1905240840 called in more than 2 months before the incident and in the name of a different company. When we find them like that we use the "no notification made to 811" cause. The ticket he had was null and void from our perspective and didn't apply because it was a different excavator.

In the first attached photo, there is a mark in the bottom right hand corner that is NOT two feet from the pipe. I can't say for sure how far but 2 feet doesn't come to mind. In the other photo, you will see the same mark from a different angle.

I think I can refute both his arguments.

From: Gowins, John E (PSC) <john.gowins@ky.gov>
Sent: Tuesday, April 07, 2020 8:33 AM
To: Jones, Mike (Auburndale) <Mike.Jones@lge-ku.com>
Subject: Incident # 31938

EXTERNAL email. STOP and THINK before responding, clicking on links, or opening attachments.

Hey Mike,
Just got off the phone with Nate Arnold.
He claims he had a dig ticket and the marks were 2 ft off.
Do you have any other documentation that would be helpful?
Thanks.

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

----- The information contained in this transmission is intended only for the person or entity to which it is directly addressed or copied. It may contain material of confidential and/or private nature. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is not allowed. If you received this message and the information contained therein by error, please contact the sender and delete the material from your/any storage medium.





Gowins, John E (PSC)

From: Carly Dunsmore <cdunsmore@usa811.org>
Sent: Tuesday, April 7, 2020 3:11 PM
To: Gowins, John E (PSC)
Cc: PSCrequest@Kentucky811.org
Subject: Re: Incident # 31938

Good afternoon John,

Please don't be sorry, I don't mind researching tickets! We searched from 6/1/19 through 8/31/19 and were unable to find any tickets for 6206 Oak Valley Drive, called in by either Nate Arnold or Showtime Construction. If you have any more information, please let me know and I would be happy to assist you further.

Thank you,

Carly Dunsmore
Member Services
P: 502-493-3541



On Tue, Apr 7, 2020 at 8:37 AM Gowins, John E (PSC) <john.gowins@ky.gov> wrote:

I know it is difficult and time consuming when you don't have a number. Sorry about this.

I am looking for a dig ticket for 6206 Oak Valley Dr, Louisville.

Name would either be Nate Arnold or Showtime Construction.

Date of incident was July 30, 2019.

Thank you.

John E. Gowins

Consumer Complaints Investigator II

Division of Inspections

Kentucky Public Service Commission

502.782.2656

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Showtime Construction LLC
2502 Delores Dr.
Louisville, KENTUCKY 40216