

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|                                  |   |            |
|----------------------------------|---|------------|
| STONE AND NASH DEVELOPERS, LLC   | ) |            |
|                                  | ) |            |
| _____                            | ) | CASE NO.   |
|                                  | ) | 2021-00175 |
| ALLEGED VIOLATION OF UNDERGROUND | ) |            |
| FACILITY DAMAGE PREVENTION ACT   | ) |            |

OPENING ORDER

Stone and Nash Developers, LLC (Stone and Nash Developers) 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

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<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 Stone and Nash Developers 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 Stone and Nash Developers 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. Stone and Nash Developers shall submit to the Commission, via email sent to [PSCED@ky.gov](mailto: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 32298 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 Stone and Nash Developers 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

ENTERED  
APR 20 2021 rcs  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

Case No. 2021-00175

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2021-00175 DATED APR 20 2021

TEN PAGES TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

|  |  |
|--|--|
| <b>KY PSC Investigator(s)</b> Eric V. Tout<br><b>Incident Date</b> 10/25/2019 5:00:00 PM | <b>Incident ID</b> 32298<br><b>Report Submitted</b> 12/5/2019 3:20:43 PM |
|--|--|

## OPERATOR INFORMATION

|  |   |
|--|---|
| <b>Operator</b> City of Lewisport Natural Gas System<br><b>Phone</b> (270) 295-3324<br><b>Incident Location</b><br>NE Corner of Eagle Way/Cardinal Drive<br>Eagle Way/Cardinal Drive<br>Lewisport, KY 42351<br>Hancock | <b>Reported By</b> Jason Roberts<br><b>Email</b> jason.roberts@live.com<br><b>Locate Ticket Number</b> 1910221977 |
|--|---|

## EXCAVATOR INFORMATION

|   |   |
|---|---|
| <b>Name of Excavator</b> Nash, David<br><b>Phone</b> 270-929-2021<br><b>Excavator Address</b><br>Owensboro<br>Owensboro, Kentucky 42301 | <b>Organization ID</b><br><b>Email</b> n/a<br><b>Locate Ticket Number</b> |
|---|---|

## INCIDENT

The Operator reports that the Excavator damaged a newly installed 2" main with an excavator bucket tooth. The Excavator exposed the pipe by hand, but was cleaning out around the pipe with the bucket when the damage occurred. The Operator states that the main was newly constructed and the valve was shut off at the time of the damage.

**The Damage Report is include as Attachment 1.**

## Excavation Summary

| <b>Excavation Within 18"</b><br>(Approximate Location) | <b>Type Of Equipment Used</b> | <b>Cost of Damage</b><br>(Per Operator) | <b>Amount Billed</b><br>(Excavator) |
|--|-------------------------------|---|-------------------------------------|
| Yes  | Mechanized / Bucket tooth     | \$200.00                                | \$0.00                              |

## Locate Ticket (LT) Summary

| <b>Ticket #</b> | <b>Valid</b>                        | <b>Initial Date</b> | <b>Expiration Date</b><br>(21 calendar days from Initial date) | <b>Incident Date</b> | <b># of Days Expired</b> | <b>Within Scope of Excavation</b> |
|-----------------|-------------------------------------|---------------------|--|----------------------|--------------------------|-----------------------------------|
| 1910221977      | For Stone Backhoe and Dozer Service | 10/22/19            | N/A  | 10/25/19             | 0                        | Yes                               |

**The Locate Ticket(s) is/are include as Attachment 2.**

## INVESTIGATION

On 07/22/20 the Operator, The City of Lewisport Natural Gas System's Jason Roberts, stated that the incident location was correctly marked, but no pre-excavation photographs were taken. Mr. Roberts provided photographs indicating damage was in line with the yellow marking flag.

**The Photographs are include as Attachment 3.**

A review of LT...1977 reveals the work was being done for and by Stone Backhoe and Dozer Service and the caller and contact person is Chris Stone (270-993-1683).

On 07/23/20 an attempt to contact the Excavator, Stone Backhoe and Dozer Service's Chris Stone, resulted in a message stating you have reached 270-993-1683 wherein a message was left.

On 07/24/20 Mr. Nash (270-929-2021) returned the 07/23/20 call and stated that he and Mr. Stone are partners in developing the property regarding this incident. Mr. Nash stated that he was utilizing the backhoe when he accidentally hooked the pipe with the bucket tooth resulting in the damage.

On 07/24/20 Mr. Roberts stated that the main was charged prior to the damage to purge air from the line. Mr. Roberts stated that due to this being a new line, no customers being serviced, and the continued excavation in the area the

line was shut off for safety, but the line contained gas at the time of the incident.

On 07/27/20 Mr. Nash was contacted to inform him that gas was in the line on the incident date and he was receptive to attending the Damage Prevention Course and paying the reduced penalty of \$250.00.

**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.

**# of Offences**  
(Including this incident)

| <b>Excavator</b> | <b>Last Offence Incident #</b> | <b>Last Offence Incident Date</b> | <b>Last Offence Resolved Date</b> |
|------------------|--------------------------------|-----------------------------------|-----------------------------------|
| 1 <sup>st</sup>  | N/A                            | N/A                               | N/A                               |

# Attachment 1

# Gas Excavation Damage Report

## City of Lewisport Natural Gas System

Submitted 12/5/2019 Incident ID: 32298

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32298\)](#)**Reported By:**

**Name:** Jason Roberts  
**Phone:** (270) 295-3324  
**Email:** jason.roberts@live.com

**Gas Line Incident Occured:**

**Date:** 10/25/2019  
**Time:** 5:00 PM

**Details:**

**Reported Date:** 12/5/2019 3:20 PM

**Incident Location Address:**

**Location:** NE Corner of Eagle Way/Cardinal Drive  
**Address:** Eagle Way/Cardinal Drive  
**City:** Lewisport  
**State:** KY  
**County:** Hancock  
**Zip:** 42351

**Confirm Code:**

**Number of Customers out:** 0

**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.:** 1910221977

**Excavator:** Contractor

**Excavator Address:**

**First Name:** David  
**Last Name:** Nash  
**Organization ID:**  
**Company:**  
**Phone:** 270-929-2021  
**Email:** n/a

**Address:** Owensboro  
**City:** Owensboro  
**State:** Kentucky  
**Zip:** 42301  
**Confirm Code:**  
**Excavation Damage:** Other insufficient excavation practices

**Description of Incident** 2" PE main was hit by excavator. Main valve was shut off at the time of the damage. This was a new construction gas main that had just been installed.

Summary Information

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12/5/2019

**Full details such as the cause** Contractors had hand dug all around the pipe and had it exposed. They were trying to clean out around the pipe to make access for electrical conduit. Excavator accidentally hit the main causing a hole in the pipe.  
**Extent of the damage** Main had small hole from excavator bucket tooth.  
**Cost of the damage** \$200.00  
**Steps taken to prevent re-occurrence** Advised the contractors to make sure pipeline is visible at all time while cleaning around the pipe. Always make sure hand dig clearances are used.  
**Amount billed to excavator** \$0.00

# Attachment 2

NORMAL NOTICE

Ticket : 1910221977 Date: 10/22/2019 Time: 23:00 Oper: MKASCHAK Chan:000

State: KY Cnty: HANCOCK City: LEWISPORT  
Subdivision: HANCOCK PARK

Address :

Street : EAGLE WAY

Cross 1 : BLUEGRASS DR

Location: THIS IS FOR LOTS 19 - 29 - 26 - 28 - 21 - 20 -25 -22 - 23 - 24 ON  
EAGLE WAY - LOCATE THE ENTIRE PROPERTIES

:

Boundary: n 37.933199 s 37.928274 w -86.894604 e -86.888478

Work type : INSTALLING ELECTRIC LINES

Done for : STONE BACKHOE AND DOZER SERVICE

Start date: 10/25/2019 Time: 07:00 Hours notice: 56/48 Priority: NORM

Ug/Oh/Both: U Blasting: NO

Emergency: N

Duration : N/A

Depth: 3 FEET

Company : STONE BACKHOE AND DOZER SERVICE Type: CONT

Co addr : 8330 KNOTTSVILLE MOUNT ZION RD

City : PHILPOT State: KY Zip: 42366

Caller : CHRIS STONE Phone: (270)993-1683

Contact : CHRIS STONE - CELL Phone:

Mobile : (270)993-1683

Email : DIRTMAN310SG@YAHOO.COM

Submitted date: 10/22/2019 Time: 23:00

Members: 0195 0199 0204

# Attachment 3





David Nash  
8774 Crisp Rd.  
Whitesville, KENTUCKY 42378

Stone and Nash Developers, LLC  
1735 Frederica Street  
Owensboro, KENTUCKY 42301