

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JASON O'HARA D/B/A O'HARA EXCAVATING & FENCE BUILDING)	
)	
_____)	CASE NO.
)	2021-00201
ALLEGED VIOLATION OF UNDERGROUND FACILITY DAMAGE PREVENTION ACT)	
)	

OPENING ORDER

Jason O'Hara d/b/a O'Hara Excavating & Fence Building (Mr. O'Hara) 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

¹ 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. O' Hara 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 Mr. O' Hara 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. O'Hara 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.

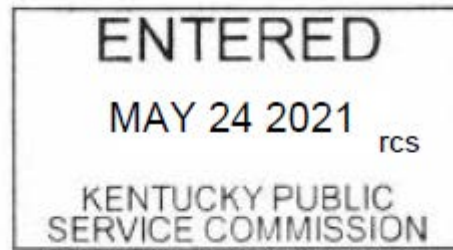
2. **Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.**

3. The Staff Incident Report 32089 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. O' Hara 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



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00201 DATED MAY 24 2021

SEVEN PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) Eric V. Tout Incident Date 9/14/2019 11:40:00 AM	Incident ID 32089 Report Submitted 10/2/2019 11:02:43 AM
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OPERATOR INFORMATION

Operator Duke Energy Kentucky, Inc. Phone (513) 287-2594 Incident Location 846 Woodlyn Ridge Ct, Bellevue 846 Woodlyn Ridge Ct Bellevue, KY 41073 Campbell	Reported By Laura Mate Email Laura.Mate@duke-energy.com Locate Ticket Number No ticket
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EXCAVATOR INFORMATION

Name of Excavator O'Hara, Jason Phone 859-466-2207 Excavator Address O'Hara Excavating & Fence Building 2625 Fords Mill Rd Dry Ridge, KY 41035	Organization ID Email Locate Ticket Number
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INCIDENT

The Operator reports that the Excavator damaged a gas main and failed to contact the Protection Notification Center (811).

The Damage Report is include as Attachment 1.

Excavation Summary

Excavation Within 18" (Approximate Location)	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
No call to 811	Not Specified	\$2,635.00	\$0.00

INVESTIGATION

On 06/03/20 the Excavator, O'Hara Excavating & Fence's Jason O'Hara, stated that a Locate Ticket was obtained but expired one day. Mr. O'Hara was receptive to attending the Damage Prevention Course and paying the reduced penalty of \$250.00.

On 06/03/20 811 conducted a search of Locate Tickets for the above and none were found.

811's response is include as Attachment 2.

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.

of Offences (Including this incident)

Excavator	Last Offence Incident #	Last Offence Incident Date	Last Offence Resolved Date
1 st	N/A	N/A	N/A

Attachment 1

Gas Excavation Damage Report

Duke Energy Kentucky, Inc.

Submitted 10/2/2019 Incident ID 32089

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32089\)](#)

Reported By:

Name	Laura Mate
Phone	(513) 287-2594
Email	Laura.Mate@duke-energy.com

Gas Line Incident Occured:

Date	9/14/2019
Time	11:40 AM

Details:

Reported Date	10/2/2019 11:02 AM
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Incident Location Address:

Location	846 Woodlyn Ridge Ct, Bellevue	
Address	846 Woodlynridge Ct	
City	Bellevue	
State	KY	
County	Campbell	
Zip	41073	
Confirm Code	Y	
Number of Customers out	0	
Was gas or hazardous liquids contained in the underground facility?	<input type="checkbox"/>	
Was gas or hazardous liquids released into the atmosphere?	<input type="checkbox"/>	* 3/2020
Locate Request Ticket No.	No ticket	
Excavator	Contractor	

Excavator Address:

First Name	Jason
Last Name	Ohara
Organization ID	
Company	O'hara Excavating & Fence Building
Phone	859-466-2207
Email	

Address	2625 Fords Mill Rd
City	Dry Ridge
State	KY
Zip	41035
Confirm Code	Y
Excavation Damage	No notification made to the One Call Center

Description of Incident Excavator failed to call 811 and struck a gas main, causing a hole in the pipe.

Summary Information

10/2/2019

Full details such as the cause	Ohara Excavating struck a gas line with no locate ticket.
Extent of the damage	Section of plastic gas main needed to be replaced.
Cost of the damage	\$2,635.00
Steps taken to prevent re-occurrence	
Amount billed to excavator	\$0.00

Attachment 2

Tout, Eric V (PSC)

From: Carly Dunsmore <cdunsmore@usa811.org>
Sent: Wednesday, June 3, 2020 12:33 PM
To: Tout, Eric V (PSC)
Cc: PSCrequest@kentucky811.org
Subject: Re: 32089

Good afternoon Eric,

We have searched between 8/1/19 and 10/14/19 and were unable to find any tickets submitted by O'Hara Excavating & Fence, for address 846 Woodlyn Ridge Court, in Campbell County. If you have any further information, I would be happy to assist you further.

Thank you,

Carly Dunsmore
Member Services
P: 502-493-3541



On Wed, Jun 3, 2020 at 11:36 AM Tout, Eric V (PSC) <ericv.tout@ky.gov> wrote:

Please provide locate ticket for:

Incident Date: 9/14/2019

Operator: Duke Energy Kentucky, Inc.
Incident Location: 846 Woodlyn Ridge Ct, Bellevue
County: Campbell
Excavator: O'Hara Excavating & Fence

Thanks,

Eric V. Tout

Kentucky Public Services Commission

Division of Inspections / Damage Prevention

211 Sower Blvd., Frankfort, KY 40601

Office: 502-782-2622

Fax: 502-564-1582

Jason O'Hara
O'Hara Excavating & Fence
2625 Fords Mill Rd.
Dry Ridge, KENTUCKY 41035