

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CAG ENTERPRISES & CONCRETE)	
CONSTRUCTION LLC)	
_____)	CASE NO.
)	2021-00357
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

CAG Enterprises & Concrete Construction LLC (CAG Enterprises) 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 CAG Enterprises 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 CAG Enterprises 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. CAG Enterprises 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.**

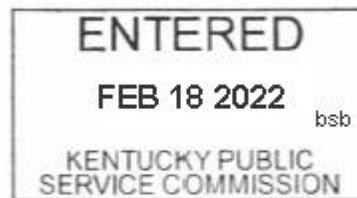
3. An individual may submit a response to the allegations contained in the Staff Incident Report without the representation of an attorney.

4. The Staff Incident Report 32557 in the Appendix to this Order is made a part of the record in this case.

5. **Please note that notice of a hearing to be held in this matter will be mailed to CAG Enterprises 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:

A handwritten signature in blue ink that reads "Linda G. Bidwell". The signature is written in a cursive style and is positioned above a horizontal line.

Executive Director

Case No. 2021-00357

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00357 DATED FEB 18 2022

TWELVE PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 32557
Incident Date 3/27/2020 10:12:00 AM	Report Submitted 4/23/2020 12:00:00 AM

OPERATOR INFORMATION

Operator Columbia Gas of Kentucky, Inc. Phone (859) 533-4022 Incident Location 2544 Mable lane lexington, KY 40511 fayette	Reported By Ryan Twait Email rmtwait@nisource.com Locate Ticket Number n/a
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EXCAVATOR INFORMATION

Name of Excavator Moore, Matt Phone 859- 983-5799 Cell: 606- Excavator Address CAG Enterprises & Concrete Construction LLC 143 Montley Ln Harrodsburg, ky 40330	Organization ID 0962820 Email Locate Ticket Number
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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	N/A	N/A	N/A	3/27/20	N/A	N/A

Excavation Summary			
Excavation Within Tolerance Zone	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
N/A	Mechanized	\$1650.00	\$1650.00

The operator reports that CAG was excavating an area without a locate ticket. While excavating with a bobcat, CAG struck and damaged a plastic one-inch natural gas service line.

INVESTIGATION

This would be the company's first violation.

December 2, 2020

- Called 859.983.5799, left a v.m.

December 9, 2020

- Called 859.983.5799, spoke to Chris Garten. He said they were removing a curb and the gas line was right under the concrete. He will try to locate some pictures and send to me.
- Contacted Columbia to see if they had pictures.

December 18, 2020

- Called 859.983.5799, left a v.m.

January 5, 2021

- Having heard nothing from Mr. Garten, a demand letter will be sent.

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

Columbia Gas of Kentucky, Inc.

Submitted 4/23/2020 Incident ID: 32557

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32557\)](#)

Reported By:

Name: Ryan Twait
Phone: (859) 533-4022
Email: rmtwait@nisource.com

Gas Line Incident Occured:

Date: 3/27/2020
Time: 10:12 AM

Details:

Reported Date: 4/23/2020 9:51 AM

Incident Location Address:

Location:

Address: 2544 Mable lane
City: lexington
State: KY
County: fayette
Zip: 40511

Confirm Code:

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.: n/a

Excavator: Contractor

Excavator Address:

First Name: Matt
Last Name: Moore
Organization ID:
Company: CAG
Phone: 859- 983-5799 Cell: 606-
Email:

Address: 143 Montley Ln
City: Harrodsburg
State: ky
Zip: 40330

Confirm Code:

Excavation Damage: No notification made to the One Call Center

Description of Incident CAG dug into a plastic one inch natural gas service line with mechanized equipment.

Summary Information

4/23/2020

Full details such as the cause CAG was excavating an area without a locate ticket. While excavating with a bobcat, CAG struck and damaged a plastic one inch natural gas service line.
Extent of the damage A plastic one inch natural gas service line was severed, and the service line was repaired.
Cost of the damage \$1,650.00
Steps taken to prevent re-occurrence While making repairs, CKY advised CAG to always call 811 prior to any excavating activities.
Amount billed to excavator \$1,650.00

CAG ENTERPRISES & CONCRETE CONSTRUCTION LLC

General Information

Organization Number	0962820
Name	CAG ENTERPRISES & CONCRETE CONSTRUCTION LLC
Profit or Non-Profit	P - Profit
Company Type	KLC - Kentucky Limited Liability Company
Status	A - Active
Standing	G - Good
State	KY
File Date	9/14/2016
Organization Date	9/14/2016
Last Annual Report	2/13/2020
Principal Office	143 MOTLEY LN HARRODSBURG, KY 40330
Managed By	Members
Registered Agent	CHRISTOPHER A. GARTEN 143 MOTLEY LN HARRODSBURG, KY 40330

Current Officers

Individuals / Entities listed at time of formation

Organizer	CHRISTOPHER A GARTEN
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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.

Reinstatement Certificate of Existence	2/13/2020 2:40:59 PM	2 pages	PDF	
Reinstatement	2/13/2020	2 pages	tiff	PDF
Administrative Dissolution	10/9/2017	1 page	PDF	
Articles of Organization (LLC)	9/14/2016	1 page	tiff	PDF

Assumed Names

Activity History

Filing	File Date	Effective Date	Org. Referenced
Reinstatement	2/13/2020 2:40:57 PM	2/13/2020	
Admin Dis. A. report not in	10/9/2017	10/9/2017	
Add	9/14/2016 4:29:15 PM	9/14/2016	

Microfilmed Images

Gowins, John E (PSC)

From: JamesRice@nisource.com
Sent: Wednesday, December 9, 2020 12:08 PM
To: Gowins, John E (PSC)
Subject: Damage 32557 2544 Mable Ln
Attachments: 2544 Mable Ln 3.JPG; 2544 Mable Ln 4.JPG; 2544 Mable Ln 8.JPG; 2544 Mable Ln 13.JPG;
2544 Mable Ln 14.JPG; 2544 Mable Ln 16.JPG

As requested, see attached.

Let me know if you need anything else.

Thanks,

James Rice
Compliance Specialist
Columbia Gas of Kentucky
Cell: 859-537-2123
Office: 859-288-6328
Email: JamesRice@NiSource.com













Cag Enterprises & Concrete Construction LLC
143 Montley lane
Harrodsburg, KENTUCKY 40330