

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

R.E.D.S. LLC)	
)	
_____)	CASE NO.
)	2021-00441
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

R.E.D.S. LLC (R.E.D.S.) 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 R.E.D.S. 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 R.E.D.S. 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. R.E.D.S. 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 43153 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 R.E.D.S. 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
FEB 22 2022 ^{rCS}
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2021-00441

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00441 DATED FEB 22 2022

EIGHTEEN PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Eric Tout **Incident ID** 43153 **Investigation** 8010
Incident Date 10/5/2020 3:56:00 PM **Report Submitted** 11/4/2020

Operator Information

Operator Duke Energy Kentucky, Inc. **Reported By** Laura Mate
Phone (859) 206-4639 **Email** Laura.Mate@duke-energy.com

Incident Location 12 Alexander Cir **Locate Ticket Number** No ticket
 Fort Thomas KY 41075
 12 Alexander Cir
County Campbell

Excavator Information

Excavator James Russ **Organization ID** 0941509
 R.E.D.S. LLC
Phone 859-992-7665 **Email**
Address 9302 Alexandria Pike **Locate Ticket Number** No ticket
 Alexandria KY 41001

Damage Report (DR) Summary

Excavation Within 18" (Approximate Location)	Gas Or Hazardous Liquids		Type Of Equipment Used	Cost of Damage	Amount Billed
	Contained	Released			
No call to 811	Yes	Yes	Mechanized/ Mini-Excavator	\$0.00	\$0.00

The Operator reports that the Excavator damaged a gas service with a mini-excavator near a house foundation and no contact was made with the KY Contact Center (811).

The DR is included as Attachment 1.

Locate Ticket (LT) Summary

Ticket #	Valid / For	Initial Date	Expiration Date (21 calendar days from Initial date)	Incident Date	# of Days Expired	Within Scope of Excavation
2009200298	No / J & Craig Construction	09/20/20	10/11/20	10/05/20	0	N/A
2010170047		10/17/20	Obtained after incident date		N/A	

811, Carly Dunmore, searched from 07/01/20 and 11/30/20, found two LT's, for the above noted incident address revealing R.E.D.S. did not obtain them. The burying of telephone line was to be performed.

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

INVESTIGATION

On 09/16/21 the Operator, Duke's Jim Collins, stated that the Excavator has not paid for the damage and provided the Claim Support Package:

- Invoice: Billing the Excavator \$1,439.28 for the Damage
- Damage Investigation Findings: Which have been outlined in the DR (See Attachment 1).
- Photographs: Depicting the incident location, no markings visible.

Duke's documentation is included as Attachment 3.

On 09/17 & 20/21 an attempt to contact the Excavator, R.E.D.S.'s Allen Nageleisen, at 513-235-3300 (# from incident 43062) resulted in a message being left.

PIPELINE DAMAGE INVESTIGATION REPORT

On 09/20/21:

An attempt to contact the Excavator, R.E.D.S.'s Forman James Russ, at 859-992-7665 resulted in Mr. Russ recalling the incident, but was unable to state if 811 was contacted before the damage occurred. Mr. Russ referred calls to the main office, 859-291-4668.

An attempt to contact the main office at 859-291-4668 resulted in a message stating the mail box is full.

A return call to Mr. Russ to leave a message for a representative to call Staff back resulted in a message stating the mail box is full.

Due to the difficulties in contacting a representative of R.E.D.S. and no response regarding incident 43062 (See note below, Violations - # of Offences) a Demand Letter imposing the penalty of \$2,000.00 will be sent.

VIOLATIONS

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	Revert to 1st Offence Date (Last Offence Date +365 Days)
2 nd	43062	09/09/20	09/09/21

Note: On 08/17/21 a Demand Letter and on 09/28/21 a Past Due Penalty Payment & No Remedial Measure/Training letters was mailed to the Excavator regarding incident 43062. As of today's date no penalty payment has been received or confirmation the training has been scheduled.

Attachment 1

Gas Excavation Damage Report

Duke Energy Kentucky, Inc.

Submitted 11/4/2020 Incident ID: 43153

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=43153\)](#)

Reported By:

Name: Laura Mate
Phone: (859) 206-4639
Email: Laura.Mate@duke-energy.com

Gas Line Incident Occured:

Date: 10/5/2020
Time: 3:56 PM

Details:

Reported Date: 11/4/2020 10:58 AM

Incident Location Address:

Location: 12 Alexander Cir
Address: 12 Alexander Cir
City: Fort Thomas
State: KY
County: Campbell
Zip: 41075
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.: No ticket

Excavator: Contractor

Excavator Address:

First Name: James
Last Name: Russ
Organization ID:
Company: REDS, LLC
Phone: 8599927665
Email:

Address: 9302 Alexandria Pike
City: Alexandria
State: KY
Zip: 41001
Confirm Code: Y
Excavation Damage: No notification made to the One Call Center

Description of Incident Excavator was digging with a mini-excavator near a house foundation and struck the underground gas service.

Summary Information

11/4/2020

Full details such as the cause Excavator did not call 811 to have utilities marked.
Extent of the damage Gas service damaged by mini-excavator.
Cost of the damage \$0.00
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: Thursday, September 16, 2021 12:01 PM
To: Tout, Eric V (PSC)
Cc: PSCrequest@kentucky811.org
Subject: Re: 431453
Attachments: 2009200298.pdf; 2010170047.pdf

****CAUTION** PDF attachments may contain links to malicious sites. Please contact the COT Service Desk ServiceCorrespondence@ky.gov for any assistance.**

Good afternoon Eric,

We searched between 7/1/2020 and 11/30/2020, and only found two tickets submitted for address 12 Alexander Cir., in Campbell County. The tickets were not submitted by R.E.D.S., LLC, but they are attached below.

Thank you,

Carly Dunsmore
Member Services
P: 833-538-0923
F: 317-386-7820



On Thu, Sep 16, 2021 at 11:36 AM Tout, Eric V (PSC) <ericv.tout@ky.gov> wrote:

Please provide locate ticket for:

Incident Date: 10/5/2020
Operator: Duke Energy
Incident Location: 12 Alexander Cir., Fort Thomas KY
County: Campbell
Excavator: R.E.D.S. LLC

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

NORMAL NOTICE

Ticket : 2009200298 Date: 09/20/2020 Time: 19:10 Oper: CRYSTAL.DAIGLE.K Chan:000

State: KY Cnty: CAMPBELL City: FORT THOMAS
Subdivision:

Address : 12
Street : ALEXANDER CIR
Cross 1 : CLITZ
Location: LOCATE ENTIRE PROPERTY,
:
Boundary: n 39.069153 s 39.067292 w -84.442134 e -84.439964

Work type : BURY PHONE LINE
Done for : J AND CRAIG CONSTRUCTION
Start date: 09/23/2020 Time: 07:00 Hours notice: 59/48 Priority: NORM
Ug/Oh/Both: U Blasting: NO Emergency: N
Duration : N/A Depth: 2 FEET

Company : J AND CRAIG CONSTRUCTION Type: CONT
Co addr : 12-4 WOODLAND HILLS DR
City : SOUTHGATE State: KY Zip: 41071
Caller : CRYSTAL DAIGLE Phone: (859)652-2483
Contact : JOHN DAIGLE Phone:
Mobile : (859)652-2481
Fax : (859)567-1006
Email : CRYSTAL.DAIGLE@YAHOO.COM

Submitted date: 09/20/2020 Time: 19:10
Members: 0122 0130 0416 0516

* Responses are current as of 09/16/2021 11:53 AM

<u>Service Area</u>	<u>Utility Type(s)</u>	<u>Customer Service Contact</u>	<u>Positive Response</u>
TIME WARNER CABLE 0122	COMMUNICATIONS	TIME WARNER CABLE CUSTOMER SERVICE (800) 892-2253	Does conflict, underground facilities have been marked.
CINCINNATI BELL TELEPHONE COMPANY 0130	COMMUNICATIONS	CINCINNATI BELL CUSTOMER SERVICE (513) 566-5050	
DUKE ENERGY KENTUCKY INC 0416	GAS	DUKE ENERGY CUSTOMER SERVICE (800) 544-6900	Does conflict, underground facilities have been marked.
DUKE ENERGY KENTUCKY INC 0516	ELECTRIC	DUKE ENERGY CUSTOMER SERVICE (800) 544-6900	Does conflict, underground facilities have been marked.

NORMAL NOTICE

Ticket : 2010170047 Date: 10/17/2020 Time: 11:48 Oper: CRYSTAL.DAIGLE.K Chan:000

State: KY Cnty: CAMPBELL City: FORT THOMAS
Subdivision:

Address : 12
Street : ALEXANDER CIR
Cross 1 : CLITZ ST
Location: LOCATE ENTIRE PROPERTY
:
Boundary: n 39.069153 s 39.067292 w -84.442134 e -84.439964

Work type : BURY PHONE LINE
Done for : J AND CRAIG CONSTRUCTION
Start date: 10/21/2020 Time: 07:00 Hours notice: 91/48 Priority: NORM
Ug/Oh/Both: U Blasting: NO Emergency: N
Duration : N/A Depth: 2 FEET

Company : J AND CRAIG CONSTRUCTION Type: CONT
Co addr : 12-4 WOODLAND HILLS DR
City : SOUTHGATE State: KY Zip: 41071
Caller : CRYSTAL DAIGLE Phone: (859)652-2483
Contact : JOHN DAIGLE Phone:
Mobile : (859)652-2481
Fax : (859)567-1006
Email : CRYSTAL.DAIGLE@YAHOO.COM

Submitted date: 10/17/2020 Time: 11:48
Members: 0122 0130 0416 0516

* Responses are current as of 09/16/2021 11:53 AM

<u>Service Area</u>	<u>Utility Type(s)</u>	<u>Customer Service Contact</u>	<u>Positive Response</u>
TIME WARNER CABLE 0122	COMMUNICATIONS	TIME WARNER CABLE CUSTOMER SERVICE (800) 892-2253	Does conflict, underground facilities have been marked.
CINCINNATI BELL TELEPHONE COMPANY 0130	COMMUNICATIONS	CINCINNATI BELL CUSTOMER SERVICE (513) 566-5050	
DUKE ENERGY KENTUCKY INC 0416	GAS	DUKE ENERGY CUSTOMER SERVICE (800) 544-6900	Does conflict, underground facilities have been marked.
DUKE ENERGY KENTUCKY INC 0516	ELECTRIC	DUKE ENERGY CUSTOMER SERVICE (800) 544-6900	Does conflict, underground facilities have been marked.

Attachment 3



INVOICE



Please Make Check Payable to: Project Resources Group

Remit to: Project Resources Group, Inc. Attn. Damage Claims 5340 S. Quebec St., Suite 250S Greenwood Village, CO 80111 EIN: 84-1576547	Invoice # DK-451023 Date: November 12, 2020 Terms: Due Upon Receipt Conf. Code # DG9VX
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Responsible for Damages: Reds LLC 9302 Alexandria Pike Alexandria, KY 41001

Date & Address Where Damage Occurred: 10/5/2020 12 Alexander Cir Ft Thomas, KY 41075

Labor and Materials Costs:			
	<u>Units</u>	<u>Unit Rate</u>	<u>Amount</u>
<i>Internal Labor Costs</i>			
Mechanic III - C&M (12049) OT	3.50	\$46.95	\$164.34
Mechanic Operator I OT	4.00	\$96.69	\$386.76
Service Mechanic A	1.00	\$77.08	\$77.08
Emergency Call Out	1.00	\$250.00	\$250.00
UtilityTruck / Tandem Axle	4.00	\$54.30	\$217.20
SRW Utility, Stake, Flat 4x4	1.00	\$40.10	\$40.10
Damage Investigation/Quality Control			<u>\$288.00</u>
Sub-Total			\$1,423.48
<i>Material Costs</i>			
Coupling	2.00	\$6.90	\$13.79
Pipe	2.00	\$1.00	<u>\$2.01</u>
Sub-Total			\$15.80
Invoice Total			<u>\$1,439.28</u> =====

Please Make Check Payable to: Project Resources Group

For questions regarding this invoice, please contact: Rebecca Hale, (720) 681-6393 or via email rhale@prgconsulting.net

Damage Investigation Findings

PRG CLAIM:	DK-451023	
DATE OF OUTAGE:	10/05/2020	03:50 PM
NOTIFICATION:	10/05/2020	04:00 PM
ARRIVAL:	10/05/2020	04:39 PM
LOCATION:	12 Alexander Cir, Ft Thomas, KY 41075	
LOCATE TICKET:	N/A	
INVESTIGATOR:	Shannon Sagraves	

SUMMARY

On Monday, October 5, 2020, I was notified by Duke Energy about damage at 12 Alexander Cir, Ft Thomas, KY 41075. Duke Energy's Underground Facilities were damaged at the above stated location by a Mini excavator.



STATEMENTS

James Russ, Reds LLC: We was digging with a mini and I hit the line. I do not have a dig ticket.

Duke Tech: There are no locate marks.

DETERMINATION

It has been determined that, on October 5, 2020, James Russ with Reds LLC was operating a mini excavator at 12 Alexander Cir, Ft Thomas, KY 41075. Russ failed to notify the One Call System.

Law(s): **KRS 367.4911**

Excavator or person responsible for excavation to notify operator of work schedule -- Responsibilities of excavator. (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. Excavator or person responsible for excavation to notify operator of work schedule -- Responsibilities of excavator.



ROOT CAUSE

In closing of this investigation, I have concluded that Reds LLC is responsible for all damages that occurred at this location and is liable for any monies owed to Duke Energy, care of PRG for repairs and replacements.



451023 - Photo Package1.JPG



451023 - Photo Package2.JPG



451023 - Photo Package3.JPG



451023 - Photo Package4.JPG



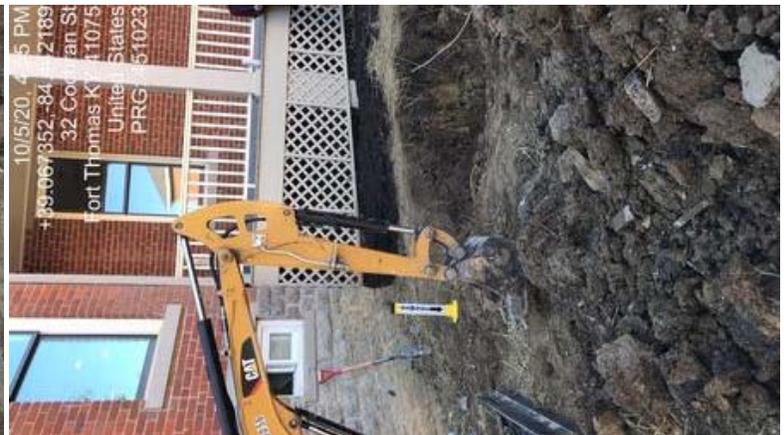
451023 - Photo Package5.JPG



451023 - Photo Package6.JPG



451023 - Photo Package7.JPG



451023 - Photo Package8.JPG



451023 - Photo Package9.JPG

R.E.D.S. LLC
9302 Alexandria Pike
Alexandria, KENTUCKY 41001