

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

A & W FENCE COMPANY, INC.)	
)	
_____)	CASE NO.
)	2022-00088
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

A & W Fence Company, Inc. (A & W Fence) 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 A & W Fence 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 A & W Fence 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. A & W Fence 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 43034 in the Appendix to this Order is made a part of the record in this case.

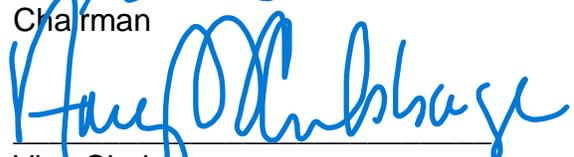
5. **Please note that notice of a hearing to be held in this matter will be mailed to A & W Fence once proof of service is received by the Commission. Parties who fail to appear after service will be subject to entry of a default judgment against them.**

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PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman

Commissioner



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00088 DATED MAR 24 2022

TWENTY-ONE PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Eric Tout **Incident ID** 43034 **Investigation** 7913
Incident Date 9/16/2020 1:30:00 PM **Report Submitted** 10/6/2020

Operator Information

Operator Columbia Gas of Kentucky, Inc. **Reported By** Ryan Twait
Phone (859) 533-4022 **Email** rmtwait@nisource.com

Incident Location 151 E Maxwell St **Locate Ticket Number** N/A
 Lexington KY 40508

County Fayette

Excavator Information

Excavator Jason Estopp **Organization ID** 0328136
 A & W Fence Company, Inc.
Phone 859-299-8873 **Email**
Address 3431 Greentree Rd **Locate Ticket Number** N/A
 Lexington KY 40517

Damage Report 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/ Auger	\$1,100.00	\$1,100.00

The Operator reports the Excavator damaged a one-inch gas service with a mechanized auger and failed to contact the KY Contact Center (811).

INVESTIGATION

On 08/17/21 the Excavator, A & W Fence Company's Wesley Estopp (859-420-7922), stated that no call was made to 811 prior to excavation. Mr. Estopp was receptive to attending the Damage Prevention Course and paying the reduce penalty of \$250.00.

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 1 st Offence Date (Last Offence Date +365 Days)
1 st	N/A	N/A	N/A

Attachment 1

Gas Excavation Damage Report

Columbia Gas of Kentucky, Inc.

Submitted 10/6/2020 Incident ID: 43034

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=43034\)](#)

Reported By:

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

Gas Line Incident Occured:

Date: 9/16/2020
Time: 1:30 PM

Details:

Reported Date: 9/28/2020 11:32 AM

Incident Location Address:

Location:
Address: 151 E Maxwell St
City: Lexington
State: KY
County: Fayette
Zip: 40508

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: Jason
Last Name: Estep
Organization ID:
Company: A&W Fence Co
Phone: 859-299-8873
Email:

Address: 3431 Greentree Rd
City: Lexington
State: KY
Zip: 40517
Confirm Code: Y
Excavation Damage: No notification made to the One Call Center

Description of Incident A&W Fence Co. struck a plastic one inch natural gas service line with mechanized equipment.

Summary Information

10/6/2020

Full details such as the cause	A&W Fence Co. was excavating an area without a locate ticket. While augering with mechanized equipment, they 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	\$1,100.00
Steps taken to prevent re-occurrence	CKY's damage prevention specialist advised the contractor to always call 811 prior to any excavating activities.
Amount billed to excavator	\$1,100.00

SUPPLEMENTAL PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Eric Tout **Incident ID** 43034 **Investigation** 7913
Incident Date 9/16/2020 1:30:00 PM **Report Submitted** 10/6/2020

Operator Information

Operator Columbia Gas of Kentucky, Inc. **Reported By** Ryan Twait
Phone (859) 533-4022 **Email** rmtwait@nisource.com

Incident Location 151 E Maxwell St **Locate Ticket Number** N/A
 Lexington KY 40508

County Fayette

Excavator Information

Excavator Jason Estep **Organization ID** 0328136
 A & W Fence Company, Inc.
Phone 859-299-8873 **Email**
Address 3431 Greentree Rd **Locate Ticket Number** N/A
 Lexington KY 40517

Supplemental Damage Report

On 09/24/21:

The Operator, Columbia's James Rice, provide the following documents:

- PSC Gas Excavation Damage Report: Outlined in Attachment 1.
- Two Photographs: Depicting the damage.

Columbia's documents are included as Attachment 2.

811, Carly Dunsmore, provided the below Loacte Ticket (LT):

LT Summary

Ticket #	Valid	Initial Date	Expiration Date <small>(21 calendar days from Initial date)</small>	Incident Date	# of Days After Incident	Within Scope of Excavation
2009221392	No	09/22/20	N/A	09/16/20	6	Yes

LT...1392 was obtained on 09/22/20 six days after the incident date of 09/16/20 indicating no valid LT was held by the Excavator when the damage occurred.

The Locate Ticket(s) is/are included as Attachment 3.

On 09/29/21 Mr. Rice provided the invoice letter, invoice and a copy of the check indicating the Excavator's insurance company paid \$1,421.02 for the damage.

The invoice letter, invoice and a copy of the check are included as Attachment 4.

Attachment 2

Tout, Eric V (PSC)

From: JamesRice@nisource.com
Sent: Friday, September 24, 2021 8:44 AM
To: Tout, Eric V (PSC)
Subject: Re: 43034, 9/16/2020, 151 E Maxwell St., Lexington, A & W Fence Company
Attachments: 151 E Maxwell St - Lexington - No notification made to 811.docx; 151 E Maxwell St 8.JPG; 151 E Maxwell St 11.JPG

Good morning Eric,

As requested, see attached internal investigation report and corresponding pics. I will forward the invoice & payment request once received.

Thanks,

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

From: "Tout, Eric V (PSC)" <ericv.tout@ky.gov>
To: "JamesRice@nisource.com" <JamesRice@nisource.com>
Date: 09/24/2021 07:06 AM
Subject: 43034, 9/16/2020, 151 E Maxwell St., Lexington, A & W Fence Company

USE CAUTION: This email was sent from an external source. Think before you click links or open attachments. If suspicious, please forward to security@nisource.com for review.

Hello James,

Please provide report, photos, invoice & payment (copy of check) info if paid.

*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*



PSC Gas Excavation Damage Report

Excavation Damage Occurred

Date: 09/16/2020

Time: 1:30 PM

JO #: 20-8450842-00

Incident Location

Address: 151 E Maxwell St

City: Lexington

County: Fayette

Zip: 40508

Cust. Lost: 1

Was gas released into the atmosphere? Y

Locate Request Ticket Number: N/A

Excavator Information

Excavator Type: Contractor

First Name: Jason

Last Name: Estep

Company: A&W Fence Co.

Phone: 859-299-8873

Email: Unknown

Address: 3431 Greentree Rd

City: Lexington

State: KY

Zip: 40517



Incident Details

Cause of Damage: No notification made to the One Call Center

Columbia DIMP Root Cause: Failure to call one call center

Description of Incident: A&W Fence Co. struck a plastic one inch natural gas service line with mechanized equipment.

Full details such as the cause: A&W Fence Co. was excavating an area without a locate ticket. While augering with mechanized equipment, they 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: \$1,100

Steps taken to prevent re-occurrence: CKY's damage prevention specialist advised the contractor to always call 811 prior to any excavating activities.

Amount billed to excavator: \$1,100



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Calvary Baptist
Church
COLLEGE
MINISTRY

Welcome to
High Point
Calvary's
College and
Young Adult
Ministry



Attachment 3

Tout, Eric V (PSC)

From: Carly Dunsmore <cdunsmore@usa811.org>
Sent: Friday, September 24, 2021 8:28 AM
To: Tout, Eric V (PSC)
Cc: PSCrequest@kentucky811.org
Subject: Re: 43034
Attachments: 2009221392.pdf

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

Hello,

Attached is a copy of the requested ticket. If you have any questions, please don't hesitate to contact us and we will be happy to assist you.

Thank you,

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



On Fri, Sep 24, 2021 at 7:04 AM Tout, Eric V (PSC) <ericv.tout@ky.gov> wrote:

Please provide locate ticket for:

Incident Date: 9/16/2020
Operator: Columbia
Incident Location: 151 E Maxwell St., Lexington
County: Fayette
Excavator: A & W Fence Company

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 : 2009221392 Date: 09/22/2020 Time: 13:26 Oper: SMCCCLURE Chan:000

State: KY Cnty: FAYETTE City: LEXINGTON
Subdivision:

Address : 151
Street : E MAXWELL ST
Cross 1 : S MARTIN LUTHER KING BLVD
Location: LOCATE THE ENTIRE PROPERTY
:
Boundary: n 38.043577 s 38.041623 w -84.501579 e -84.499211

Work type : INSTALL FENCE
Done for : CALVERY BAPTIST CHURCH
Start date: 09/24/2020 Time: 13:45 Hours notice: 48/48 Priority: NORM
Ug/Oh/Both: U Blasting: NO Emergency: N
Duration : N/A Depth: 2 FEET

Company : A AND W FENCE COMPANY Type: CONT
Co addr : 3431 GREENTREE ROAD
City : LEXINGTON State: KY Zip: 40517
Caller : AMBER ESTEPP Phone: (859)299-8873
Contact : JASON ESTEPP - CELL Phone:
Mobile : (859)227-4885
Email : JASONESTEPP@AWFENCE.COM

Submitted date: 09/22/2020 Time: 13:26
Members: 0139 0200 0237 0326 0370 0645 0687 0696 0700 2621
WINKY

* Responses are current as of 09/24/2021 08:25 AM

<u>Service Area</u>	<u>Utility Type(s)</u>	<u>Customer Service Contact</u>	<u>Positive Response</u>
AT&T DISTRIBUTION 0139	COMMUNICATIONS	AT&T DISTRIBUTION CUSTOMER SERVICE (888) 757-6500	
LEXINGTON URBAN COUNTY GOVERNMENT 0200	SEWER		
INSIGHT COMMUNICATIONS 0237	CABLE TV	INSIGHT COMMUNICATIONS CUSTOMER SERVICE (502) 357-4400	Does conflict, underground facilities have been marked.
KENTUCKY UTILITIES (ONLY ADD IF IN THIS COUNTY) 0326	ELECTRIC	KENTUCKY UTILITIES CUSTOMER SERVICE (800) 981-0600	Does conflict, underground facilities have been marked.
KENTUCKY AMERICAN WATER COMPANY 0370	WATER		No Conflict
COLUMBIA GAS 0645	PIPELINE	COLUMBIA GAS CUSTOMER SERVICE (800) 432-9345	
KENTUCKY WIRED 0687	FIBER OPTIC		
UNIVERSITY OF KENTUCKY 0696	COMMUNICATIONS, ELECTRIC, GAS, SEWER, STEAM, WATER		
METRONET FIBER NETWORK 0700	COMMUNICATIONS		No Conflict
COLUMBIA GAS 2621	PIPELINE	COLUMBIA GAS CUSTOMER SERVICE (800) 432-9345	
WINDSTREAM KENTUCKY INC WINKY	TELEPHONE		

Attachment 4



**Columbia Gas of Kentucky, Inc.
Damage Prevention Support**

3101 N Ridge Road E
Lorain, Ohio 44055

10/02/2020

(440)240-6166

A&W Fence Company, Inc,
3431 Greentree Rd
Lexington, Kentucky 40517

Re: Our Claim: KY20-1139

Gentlemen,

Enclosed is our damage claim invoice in the amount of \$1,421.02, which is the expense our company incurred as the result of your contact with our facilities, located in the vicinity of 151 E Maxwell St, Lexington, Kentucky 40508. Our reports indicate that our facilities were damaged on 09/16/2020.

If you have insurance to cover this type of damage claim, please forward the enclosed damage claim invoice and envelope to your insurance carrier for payment. Then please advise our department of your insurance company's name and address so that we can follow the matter to a conclusion. In the event you are not insured, your check, draft or money order in the above amount is hereby requested. To insure proper credit to your account, please remit the top portion of the damage claim invoice, along with your payment, in the enclosed pre-addressed envelope.

If you wish to discuss this matter further, please contact the undersigned.

Sincerely,

Dawn Miller
Facility Damage Coordinator

Enclosure

Columbia Gas/NiSource
INVOICE

CLAIM NO.: KY20-1139

JOB ORDER NO.: 20-8450842-00

DATE: October 02, 2020

MRA ACCOUNT NUMBER: [REDACTED]

PAYMENT DUE 28 DAYS FROM ABOVE DATE
PLEASE MAKE REMITTANCE PAYABLE TO:

A&W Fence Company, Inc,
3431 Greentree Rd
Lexington, Kentucky 40517

Columbia Gas / NiSource
3101 N. Ridge Rd. E.
Lorain, Ohio 44055
ATTN: Damage Prevention Support

AMOUNT DUE
\$1,421.02

PLEASE CUT HERE AND RETURN TOP WITH PAYMENT

Itemization of the charges for the damages which occurred on 09/16/2020 in the vicinity of 151 E Maxwell St, Lexington, Kentucky 40508.

ITEMS	AMOUNT
Labor	[REDACTED]
Materials	[REDACTED]
Equipment	[REDACTED]
Gas Loss	[REDACTED]
Contracted Fees	[REDACTED]
Taxes	[REDACTED]
TOTAL EXPENSE	\$1,421.02

Notes:

**If you have any questions regarding this bill, please contact Dawn Miller,
Facility Damage Coordinator, at (440)240-6166.**



Columbia Gas/NiSource
INVOICE

CLAIM NO.: KY20-1139

JOB ORDER NO.: 20-8450842-00

DATE: October 02, 2020

THIS DOCUMENT HAS A COLORED BACKGROUND, VOID PANTOGRAPH, AND MICROPRINTING IN THE BORDER

Auto-Owners INSURANCE

LIFE • HOME • CAR • BUSINESS

OWNERS INSURANCE CO. - CLAIM PAYMENT CHECK

BANK OF AMERICA, NA

70-2328
719

359965346

02/08/2021

ONE THOUSAND FOUR HUNDRED TWENTY-ONE AND 02/100 DOLLARS

PAY TO THE
ORDER OF COLUMBIA GAS OF KENTUCKY

INSURED: A & W FENCE COMPANY INC	
CLAIM NUMBER	LOSS DATE
300-0438061-2020	09/16/2020
POLICY NUMBER	AGENCY
[REDACTED]	14-0018-00
*****1,421.02	

IN PAYMENT OF:
PD Settlement for claim # KY20-1139

20874407-000-001-9

Jeffrey S. Taggold

FEB 19 2021

*Jason Estepp
A & W Fence Company, INC.
3431 Greentree Road
Lexington, KENTUCKY 40517