

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

W. ROGERS COMPANY)	
)	
_____)	CASE NO.
)	2019-00451
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

OPENING ORDER

W. Rogers Company 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 W. Rogers Company 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 W. Rogers Company 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. W. Rogers Company shall submit to the Commission, at 211 Sower Boulevard, Frankfort, Kentucky 40601, 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 32068 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 W. Rogers Company 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

Commissioner Talina Mathews did not participate in this case.

ENTERED
DEC 19 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2019-00451

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00451 DATED **DEC 19 2019**

SIX PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 32068
Incident Date 9/11/2019 2:55:00 PM	Report Submitted 9/27/2019 9:28:00 AM

OPERATOR INFORMATION

Operator Columbia Gas of Kentucky, Inc. Phone (859) 361-0344 Incident Location 109 Goodrich Ave Lexington, KY 40503 Fayette	Reported By Tim McKune Email tmckune@nisource.com Locate Ticket Number 1909030233
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EXCAVATOR INFORMATION

Name of Excavator Upchurch, Kenneth Phone 859-231-6290 Excavator Address W. Rogers Company 649 Bizzell Dr. Lexington, KY 40510	Organization ID 0968818 Email none 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
1909030233	Yes	9/3/19	9/24/19	9/11/19	N/A	Yes

Excavation Summary			
Excavation Within Tolerance Zone	Type Of Equipment Used	Cost of Damage (Per Operator)	Amount Billed (Excavator)
Yes	Mechanized	\$1591.00	\$1591.00

The operator reports that W. Rodgers Co was excavating an area with a locate ticket. W. Rodgers Co was digging with mechanized equipment within the tolerance zone of a properly marked service line. While excavating, W. Rodgers Co dug into a plastic half-inch natural gas service line.

INVESTIGATION

This would be the company's first violation.

October 15, 2019

- Spoke with Derrick Case of W. Rogers. He believes it was a mislocate and will do research and get back with me.
- Mr. Case called back, his picture shows it was an accurate locate. We discussed the options for resolution and he accepted the reduced penalty and remedial measure.

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.

Gas Excavation Damage Report

Columbia Gas of Kentucky, Inc.

Submitted 9/27/2019 Incident ID: 32068

[Set back to Edit](#) | [Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=32068\)](#)

Reported By:

Name: Tim McKune
Phone: (859) 361-0344
Email: tmckune@nisource.com

Gas Line Incident Occured:

Date: 9/11/2019
Time: 2:55 PM

Details:

Reported Date: 9/27/2019 9:28 AM

Incident Location Address:

Location:
Address: 109 Goodrich Ave
City: Lexington
State: KY
County: Fayette
Zip: 40503
Confirm Code: Y
Number of Customers out: 1
Locate Request Ticket No.: 1909030233
Excavator: Contractor

Excavator Address:

First Name: Kenneth
Last Name: Upchurch
Organization ID:
Company: W. Rodgers Co
Phone: 859-231-6290
Email: none
Address: 649 Old Frankfort Pike
City: Lexington
State: KY
Zip: 40510

Confirm Code:

Excavation Damage: Failure to use hand tools where required

Description of Incident W. Rodgers Co dug into a plastic half inch natural gas service line with mechanized equipment.

Summary Information

9/27/2019

Full details such as the cause	W. Rodgers Co was excavating an area with a locate ticket. W. Rodgers Co was digging with mechanized equipment within the tolerance zone of a properly marked service line. While excavating, W. Rodgers Co dug into a plastic half inch natural gas service line.
Extent of the damage	A plastic half inch service line was punctured, and the service line was repaired
Cost of the damage	\$1,591.00
Steps taken to prevent re-occurrence	While making repairs, CKY advised W. Rodgers Co of the KY 811 Dig Law and to always use hand tools when attempting to spot a marked line.
Amount billed to excavator	\$1,591.00

W. ROGERS COMPANY

General Information

Organization Number 0968818
Name W. ROGERS COMPANY
Company Type ALC - Assumed Name for LLC
Status A - Active
State DE
File Date 12/13/2016
Expiration Date 12/13/2021
Renewal Date 6/13/2021
Principal Office 649 BIZZELL DR.
 LEXINGTON, KY 40510

Current Officers

Individuals / Entities listed at time of formation

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.

Annual Report	6/28/2019	1 page	PDF
Annual Report	7/2/2018	1 page	PDF
Annual Report	8/3/2017	1 page	PDF
Certificate of Assumed Name	12/13/2016	1 page	tiff PDF
Certificate of Authority (LLC)	11/22/2016	1 page	tiff PDF

Assumed Name of

[WRC 1, LLC](#)

Active

Activity History

Filing	File Date	Effective Date	Org. Referenced
Added assumed name	12/13/2016 10:23:58 AM	12/13/2016	WRC 1, LLC
Add	12/13/2016 10:23:57 AM	12/13/2016	WRC 1, LLC

Microfilmed Images

NORMAL NOTICE REMARK

Ticket : 1909030233 Date: 09/03/2019 Time: 07:59 Oper: MEVENER Chan:000
Old Tkt: 1908191864 Date: 08/19/2019 Time: 14:32 Oper: MKASCHAK Rev: 00A

State: KY Cnty: FAYETTE City: LEXINGTON
Subdivision:

Address :

Street : GOODRICH AVE

Cross 1 : NICHOLASVILLE RD

Location: FROM THE INTERSECTION - TRAVEL NORTHWEST FOR 50 FEET - LOCATE HEADING
NORTHWEST FOR 2000 FEET ON BOTH SIDES OF THE ROAD FROM RIGHT OF WAY TO RIGHT OF
WAY - TO INCLUDE THE ENTIRE LOOP NEAR PENSACOLA DR - ENDING AT PENSACOLA DR

:

Boundary: n 38.016538 s 38.012579 w -84.522836 e -84.515650

Work type : INSTALL STORM SEWER

Done for : LEXINGTON FAYETTE URBAN COUNTY G

Start date: 09/05/2019 Time: 08:15 Hours notice: 48/48 Priority: NORM

Ug/Oh/Both: U Blasting: NO Emergency: N

Duration : N/A Depth: 5 FEET

Company : W ROGERS COMPANY Type: CONT

Co addr : 649 BIZZEL DR

City : LEXINGTON State: KY Zip: 40510

Caller : ROY LANDS Phone: (859)321-2627

Contact : ROY LANDS - CELL Phone:

Mobile : (859)229-2321

Email : DEREKC@WROGERS.COM

Submitted date: 09/03/2019 Time: 07:59

Members: 0139 0200 0237 0326 0370 0700 2621 WINKY

W. Rogers Company
649 Bizzell Dr.
Lexington, KENTUCKY 40510