COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOHNNIE EAKINS

ALLEGED VIOLATION OF UNDERGROUND FACILITY DAMAGE PREVENTION ACT

CASE NO. 2022-00256

INITIATING ORDER FOR ALLEGED 811 VIOLATION OF THE KENTUCKY UNDERGROUND FACILITY DAMAGE PREVENTION ACT

Johnnie Eakins (Mr. Eakins) 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 A hearing in this case shall take place on September 30, 2022.

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 Appendix A. In its Incident Report, Staff cites Mr. Eakins 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. Eakins violated the Underground

Facility Damage Prevention Act. The Commission further finds that a formal investigation

into the excavation damage incident shall be conducted.

IT IS THEREFORE ORDERED that:

1. Mr. Eakins shall submit to the Commission, via email sent to <u>PSCED@ky.gov</u> 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. Mr. Eakins shall appear on September 30, 2022, at 9 a.m. Eastern Daylight

Time, in the Richard Raff Hearing Room of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violation of the Underground Facility Damage Prevention Act. 3. The September 30, 2022 hearing shall be conducted via video conferencing.

4. Mr. Eakins shall attend the hearing by using the following link: <u>https://global.gotomeeting.com/join/308551245;</u> information and instructions are attached to this Order as Appendix B.

5. Mr. Eakins shall notify the Commission at least ten days prior to the hearing if Mr. Eakins is unable to appear by video conferencing and will therefore appear in person.

6. 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.

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

8. The Staff Incident Report 53679, attached to this Order as Appendix A, is made a part of the record in this case.

9. The September 30, 2022 hearing shall be recorded by video only.

10. Please note parties who fail to appear after service will be subject to entry of a default judgment against them.

-3-

PUBLIC SERVICE COMMISSION Chairman

Vice Chairman Monfort Reger Commissioner



ATTEST:

Bridell

Executive Director

Case No. 2022-00256

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2022-00256 DATED AUG 22 2022

TWENTY-EIGHT PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Incident Date	Eric Tout 5/15/2021 9:35:00 AM	Incident ID 53679 I Report Submitted	nvestigation 8621 6/10/2021
	Operato	r Information	
Operator Phone	Louisville Gas and Electric Company (LG&E) (502) 364-8281	Reported By Email	Mike Jones Mike.Jones@lge-KU.com
Incident Location	9310 Ash Ave Pewee Valley KY 40056	Locate Ticket Number	NA
County	Oldham		
	Excavato	or Information	
Excavator	Johnnie Eakins Johnnie Eakins	Organization ID	
Phone	502-593-9566	Email	
Address	2814 S 4th St Louisville KY 40208	Locate Ticket Number	NA

Damage Report (DR) Summary

Excavation Within 18"	Gas Or Haza	ardous Liquids	Type Of Equipment Used	Cost of	Amount
(Tolerance Zone)	Contained	Released	Type Of Equipment Osed	Damage	Billed
No call to 811	Yes	Yes	Not specified	\$639.00	\$0.00

The operator reports that the Excavator/Friend damaged a one-inch gas service while trenching for a street light at the driveway and failed to contact the KY Contact Center 811. **The DR is included as Attachment 1.**

INVESTIGATION

On 04/08/22 an attempt to contact the Excavator resulted in a message stating that the customer is unable to accept calls at this time.

On 08/11 & 12/22 an attempt to contact the Excavator resulted in a message stating leave a message wherein a voice message was left.

On 04/14/22 the Operator, LG&E's Mike Jones provided the following documents:

- <u>Facts-Based Investigation & Incident Field Investigation Report:</u> Which are outlined in the DR Summary and Attachment 1.
- <u>Photographs -10:</u> Depicting the incident location
- <u>Invoice</u>: Billing the Excavator \$639.49 for the damage repair. Mr. Jones, stated that the Excavator was bill twice and LG&E has receive no payment for the damage repair.

LG&E's documents are included as Attachment 2.

On 04/14/22 811, April Butler and/or Carly Dunsmore, conducted a search from 04/01/21 thru 05/22/21 finding no Loacte Tickets (LT) for the excavator at the incident location on the incident date 05/15/21.

PIPELINE DAMAGE INVESTIGATION REPORT

Due to no return calls from the Excavator a Demand Letter imposing the penalty of \$250.00, first offence and requiring the attendance to the Damage Prevention Course will be sent.

VIOLATIONS¹

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 Within 365 Days

(Including this incident)			
Excavator	Last Offence Incident #	Last Offence Incident Date	Revert to 1 st Offence Date (Last Offence Date +366 Days)
1 st	N/A	N/A	N/A

¹ A revision of the Underground Facility Damage Prevention Act took effect on January 1, 2022. All incidents of damage dated prior to January 1, 2022 will be reviewed under the former version of the Act

Attachment 1

Print (PDFForm.aspx?Rpt=GasInvestigation&IG=53679)

Gas Excavation Damage Report

Louisville Gas and Electric Company

Submitted 6/10/2021 Incident ID: 53679

Set back to Edit Staff Edit

Reported By: Name: Mike Jones Phone: (502) 364-8281 Email: Mike.Jones@lge-KU.com Gas Line Incident Occured: Date: 5/15/2021 Time: 9:35 AM Details: Reported Date:

6/10/2021 11:22 AM

Incident Location Address:

Location:	
Address:	9310 Ash Ave
City:	Pewee Valley
State:	KY
County:	Oldham
Zip:	40056
Confirm Code:	Y
Number of Customers ou	it: 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	o.: NA
Excavator:	Contractor

Excavator Address:

First Name:	Johnnie
Last Name:	Eakins
Organization ID:	
Company:	Johnnie Eakins
Phone:	502-593-9566
Email:	

Address:	2814 S 4th St
City:	Louisville
State:	KY
Zip:	40208
Confirm Code:	Y
Excavation Damage:	One Call notification practices not sufficient
Description of Incident ?Ex	cavator/"friend" trenching for street light.

Summary Information

6/10/2021		
6/10/2021	cause Extent of the damage Cost of the damage	Excavator "helping a friend" trench for electric street light at rear of driveway, damaged unmarked 1 inch plastic gas service. No locate request. Broken 1" plastic service \$639.00 I explained The Dig Law to both, Johnnie and Dan. I gave them a Safe
	re-occurance Amount billed to excavator	Digging Brochure. \$0.00

Attachment 2

Tout, Eric V (PSC)

From:	Jones, Mike (Auburndale) <mike.jones@lge-ku.com></mike.jones@lge-ku.com>
Sent:	Thursday, April 14, 2022 10:17 AM
То:	Tout, Eric V (PSC)
Subject:	RE: 53679, 5/15/2021, 9310 Ash Ave, Pewee Valley, Johnnie Eakins
Attachments:	2021052008-01.pdf; digtix_attachments_1649945659.zip; DigTix_Incident_Report (1).pdf; Yellow Report 9310 Ash Ave.pdf

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

This has been billed twice but we have not received any payments.

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Friday, April 08, 2022 10:12 AM
To: Jones, Mike (Auburndale) <Mike.Jones@lge-ku.com>
Subject: 53679, 5/15/2021, 9310 Ash Ave, Pewee Valley, Johnnie Eakins

EXTERNAL email. STOP and THINK before responding, clicking on links, or opening attachments.

Hello Mike,

Please send repots, photos, invoices and payment info (copy of check) 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

------ The information contained in this transmission is intended only for the person or entity to which it is directly addressed or copied. It may contain material of confidential and/or private nature. Any review, retransmission, dissemination or other use of, or

taking of any action in reliance upon, this information by persons or entities other than the intended recipient is not allowed. If you received this message and the information contained therein by error, please contact the sender and delete the material from your/any storage medium.



Internal Claim ID:	INC-2	0210515-001	Customer Claim ID:		
Site Investigator:	Tracy Reesor		Notified At:	05/15/21 10:03:00	
Notified By:	Gas Opera	ations Dispatch 502589	91444		
Damage Location:	9310 Ash	Ave Pewee Valley KY	40056		
Incident Time:	05/15/21 1	0:30:00			
Original Locate Request: None found		ne found	Assigned Locator:		
Locate Request Due	ə:		Locate Request Comple	ted:	
Photos Taken Befor	re Damage	? <u>N</u>			
Photos Taken of Da	mage Site?	? <u>Y</u>			
Type and Size of Da	maged Uti	lity: Natural Gas Ser	vice/Drop 1		
Depth:		<u>18" to < 36" (0.5</u>	5 to < 1m)		
Description and Ext	ent of Dam		ing a friend" trenching for e ged unmarked 1 inch pl gas		rear of
Equipment Used:		Trencher			
Excavation Compar	ny Name:	Johnnie Eakins			
Company Address:		2814 S 4th St, Louisvi	ille, KY 40208		
Phone:	5025	939566	Contact Name:	Johnnie Eakins	
Working For:					
Repair Company:	LG&E				
Personal Injury: N	3rd	Party Property Dama	ge: <u>N</u> Evacuation	s: <u>N</u> Other	: <u>N</u>
Impact Comments:					
Was Locate request	ted?:	<u>N</u>	Locate Request Comple	ted?:	<u>N</u>
Locate Accurate (W	ithin Tolera	ance Zone): <u>N</u>	If No, Distance Markings	s Off:	No marks
Marks Visible at Tin	ne of Dama	ge: <u>N</u>	Damage Within Scope o	f Ticket:	<u>N</u>



Repair Contact Name: Dus	tin Hartlage	Phone:	
Repair Comments: Crew to r	nake repairs		
Witness:		Phone:	
Comments:			
Witness:		Phone:	
Comments:			
Root Cause Explanation:			
Responsible Party:	Johnnie Eakins		
Responsible Party Comments	502-5939566 2814 S 4th st 40208	n and said to bill him for damage	, not Johnnie.
Date of Investigation:	05/15/21	Investigation Time (Hours):	
Site Investigator's Name:	Tracy Reesor	Phone:	5022694079
Site Investigator's Signature:	Tracy Reesor	Date:	05/17/2021
Damage Status:	One Call Notification I	ssue	
Cause Code:	No notification made t	o One-Call Center / 811	
Damage Claims Manager:			



















to at the second state of the		01039.49
Incident Field Investigation	1 Report — Gas	
Damage report # 202105 2008		
Is this related to a capital project? Yes No	Project/task_07720414 / MARAIT	
G# 011121571	Resp. ctr. Aoc	a PPL company
	Damage to company facilities	and the second
Date of incident _ 5-15-2021	Time 10-12 Xa.m p.m. Police	rapart #
Address/location of damage 9310 Ash Ave		718 code 400.56
Subdivision name		
Time dispatched 9:35	Xa.m p.m. Time of completion/30	Dam Man
Who caused damage? Johnnie Eakins		
Address of party causing damage 2814 5 47	(Name of contractor, utility, individual, etc.)	Alle Ky 40208 (State) (ZIP)
Phone number of party causing damage (572.) 593-9566 (City	(State) (ZIP)
	(rearrisely	
	No If yes, who was in charge? Johnnie Eakin	2
If no, how did you obtain name of party causing damage?		
What was damaged? Company main	stomer service Company service Other	
Party's explanation for damage "helping a friend	ng for dramage	
	"LAS PLASHIC Survice	
Any additional work to be performed? Yes		
	If yes, by whom? Number of customers out	
	Possible damage to others	Contraction of the second second second
Date of incident	Time a.m p.m.	
What was damaged?		
What was LG&E doing at this location?		1
Description of damage		
Owner of property	Phone ()	
Owner's address	(Area code)	(Number)
	(City)	(State) (ZIP)
To whom was damage reported?		
	name of contractor	
Is the LG&E contractor responsible for the damage? Yes		1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.
	an the photos be obtained?	
were there any injuries? U Yes No If yes, name of	injured party	
Were there any witnesses to the incident? Yes No		
Name	Address	Phone

BUD/KY 811/VA 811 information
BUD number and requesting party's name
Were facilities marked? 🗆 Yes 😥 No Did excavator agree? 🙇 Yes 🗔 No
If yes, were facilities properly marked? 🗌 Yes 🗍 No Did excavator agree? 🔲 Yes 🗌 No
If no, how were they mismarked? (be specific)
Was line locating contractor on the job? 🗌 Yes 🔲 No
5-15-21 015 E028516
(Date of report) (Employee number) Approved Bo Appl

Put any additional comments on back

Comments Repaired 1" CAS Custome Survice Replaced 2' of pipe 4

Crew Personnel	Employee #	ST Hours	OT Hours	DT Hours	Unit #	Equip	ment
Dutin Hustleur	E028315	2.5			8372	- Backhoe	
Bustis Hurflese Barthe hedford	E028316	3			4876	Backhoe	🗌 Kubota
Sackson powers	6029682	3			10.1	Backhoe	🗆 Kubota
Succession proces						Backhoe	🗆 Kubota
						Backhoe	🗌 Kubota
						Backhoe	🗌 Kubota
						Backhoe	🗌 Kubota
						Backhoe	🗌 Kubota
						Backhoe	🗆 Kubota
						Backhoe	🗆 Kubota
						Backhoe	🗌 Kubota

Please provide a sketch of the damage location, including any locate markings.

Material Used				
Qty.	Material	IIN#		
	Pipe PE 2406: 1/2" IPS	1170051		
Z ft.	Pipe PE 2406: 1" CTS	1170078		
	Pipe PE 2406: 1-1/4" IPS	0434843		
ft.	Pipe PE 2406: 2" IPS	0459060		
ft.	Pipe PE 2406: 4" IPS	0395160		
ea.	1/2" IPS Permasert coupling	0394943		
R ea.	1" CTS Permasert coupling	0394935		
	2" IPS Electrofusion CPL	0394894		
ea.	4" IPS Electrofusion CPL	0394901		
ea.	1" Prefab Meterloop w/reg.	0532951		
ea.	Flex Riser 1" male by 1/2" IPS	0530927		
ea.	Flex Riser 1" male by 1" CTS	0530935		
ea.	Farm tap (w/o regulator)	ARM WR 5695012		
ea.	Farm tap regulator (Fischer 627 with 1/8" diameter orifice)			





2021-05-15 10:38:29 38,2876076,-85,473294



2021-05-15 10:31:46 38.2874388,-85.4732577





2880007,-85,4733657



UGE

2021-05-15 10:39:03 38,2877652,-85,4733605









2021-05-15 10:56:54 38.2877612,-85.4732632



Invoice Louisville Gas and Electric Company 820 West Broadway Louisville, KY 40202 Attn: Remittance and Collection 800-928-1340

INVOICE DATE:

08/25/2021

REFERENCE NO.: DTS INVOICE NO.: OTPD419

2021052008-01

AMOUNT DUE: DUE DATE: \$639.49 09/24/2021

EAKINS, JOHNNIE 2814 SOUTH 4TH STREET LOUISVILLE KY 40208

PLEASE RETURN TOP PORTION WITH YOUR PAYMENT PLEASE INCLUDE INVOICE NUMBER ON ALL REMITTANCES

COST TO REPAIR: DAMAGE DATE: DAMAGE LOCATION:	Damaged Customer Gas Service 05/15/2021 9310 Ash Ave Peewee Valley, KY 40056	
LABOR HOURS: 8.8	50	
LABOR COST:		\$560.96
MATERIAL COST:		\$20.92
TRANSPORTATION/EQUIPMENT COST:		\$57.61
CONTRACTOR COST:		\$0.00
OTHER DAMAGE COST	S:	\$0.00
	TOTAL DU	E: \$639.49

Louisville Gas and Electric Company · Remittance and Collection · 820 West Broadway · Louisville, KY 40202

Attachment 3

Tout, Eric V (PSC)

From:	Member Services <memberservices@usa811.org></memberservices@usa811.org>
Sent:	Thursday, April 14, 2022 11:15 AM
То:	Tout, Eric V (PSC)
Cc:	PSCrequest@kentucky811.org
Subject:	Re: 53679

Hello,

We searched for tickets from April 1st through May 22nd, 2021 but were unable to find any tickets submitted on 9310 Ash Ave in Pewee Valley, Oldham County, and Jefferson County (property shows in both) for the excavator Johnnie Eakins. If you have any more information, we would be happy to assist you further.

Thank you, April Butler & Carly Dunsmore, *Member Services*

Office 833-538-0923 | Fax 317-386-7820

Know what's below. 811 before you dig.

Indiana811 | Facebook | Twitter | YouTube

Kentucky811 | Facebook | Twitter | YouTube

On Thu, Apr 14, 2022 at 11:01 AM Tout, Eric V (PSC) <<u>ericv.tout@ky.gov</u>> wrote:

Please provide locate ticket(s) for:

Incident Date: 5/15/2021 (Provided the date range for the search)

Operator: Louisville Gas and Electric

Incident Location: 9310 Ash Ave., Pewee Valley

County: Oldham

Excavator: Johnnie Eakins

Thanks,

Eríc 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

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2022-00256 DATED AUG 22 2022

TWO PAGES TO FOLLOW

Information and Instructions for Hearing

You are required to attend a formal hearing with the Kentucky Public Service Commission. Please note the hearing is scheduled in the **Eastern Time Zone**, and the hearing date and time are on the Order that accompanied these instructions.

You are **strongly encouraged** to download the GoToMeeting app now and be ready for your hearing. If you cannot appear via video using this app, at least ten days prior to your scheduled hearing you must call the Commission's offices at the number provided below. You will receive instructions on appearing in person in the Richard Raff Hearing Room of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky at the time and date of your scheduled hearing. Please direct any questions to Ashley Rhodes, Commission Division of Inspections. <u>AshleyB.Rhodes@ky.gov</u> or 502-782-2578.

To download the GoToMeeting app go to:

https://global.gotomeeting.com/install/258846301

On the day of your hearing using your computer, tablet, or video enabled smartphone. Access the proceeding at:

https://global.gotomeeting.com/join/308551245

More information about using GoToMeeting can be found at: GoToMeeting - Attendee Quick Start https://www.youtube.com/embed/8VaHHVP0FCU?autoplay=1&showinfo=0&controls=0&rel=0

GoToMeeting - How to Join a Meeting https://www.youtube.com/embed/Ojl1q_sPrP0?autoplay=1&showinfo=0&controls=0&rel=0

Technical Requirements for Using GoToMeeting

Operating System:

Windows 7 – Windows 10 Mac OS X 10.9 (Mavericks) – mac OS Big Sur (11) Linux/Ubunto (Web App only) Google Chrome OS (Web App only) iOS 11 – iOS 13 Android OS 5 (Lollipop) – Android 10

Web Browser: (Applies to Web App only)

Google Chrome v72 or newer Microsoft Edge v77 or newer

Internet Connection:

Computer: 1 Mbps or better (broadband recommended)

Mobile device and Chromebook: 3G or better (WiFi recommended for VoIP)

Software:

GoToMeeting desktop app (JavaScript enabled)

GoToMeeting app from the Apple Store, Google Play Store, or Windows Store

Hardware:

2GB of RAM (minimum), 4GB or more of RAM (recommended)

Webcam device*

Microphone and speakers** (USB headset recommended)

Mobile Device:

iPhone 5 or newer

iPad 3rd gen or newer

Note: * You MUST have a camera on your device or connected to your device to appear at the hearing.

** Most devices have built-in speakers, but you will get better audio quality while connected via VoIP if you use a headset

Johnnie Eakins 931 Dresden Ave Louisville, KENTUCKY 40215