COMMONWEALTH OF KENTUCKY BEFORE THE PUBLIC SERVICE COMMISSION

TOTAL GROUND SOLUTIONS, LLC)	
)	CASE NO.
ALLEGED VIOLATION OF UNDERGROUND)	2022-00257

FACILITY DAMAGE PREVENTION ACT

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

Total Ground Solutions, LLC (Total Ground Solutions) 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

In the Matter of:

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 TOTAL GROUND SOULUTIONS 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 Total Ground Solutions 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. Total Ground Solutions 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. Total Ground Solutions 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. Total Ground Solutions shall attend the hearing by using the following link: https://global.gotomeeting.com/join/308551245; information and instructions are attached to this Order as Appendix B.
- 5. Total Ground Solutions shall notify the Commission at least ten days prior to the hearing if Total Ground Solutions 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 53705, 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.

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissione

ENTERED

AUG 22 2022

- -1-

KENTUCKY PUBLIC SERVICE COMMISSION

ATTEST:

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2022-00257 DATED AUG 22 2022

TWENTY-TWO PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Eric Tout Incident ID 53705 Investigation 8628

Incident Date 5/20/2021 7:40:00 AM Report Submitted 6/17/2021

Operator Information

Operator Duke Energy Kentucky, Inc. Reported By Ronya Nabors

Phone (704) 576-8155 **Email** ronya.nabors@duke-energy.com

Incident Location 2344 Amsterdam Rd Locate Ticket Number None

Villa Hills KY 41017

2344 Amsterdam Rd - 464206

County Kenton

Excavator Information

Excavator Matt Gruber Organization ID 2378918

Total Ground Solutions, LLC

Phone 419-467-3357 **Email**

Address 25559 Eckel Rd Locate Ticket Number None

Perrysburg OH 43551

Damage Report (DR) Summary

Excavation Within 18"	Gas Or Haza	rdous 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	\$0.00	\$0.00

The Operator reports that the Excavator damaged an underground gas service, leveling a lot, for future roadway reconstruction and failed to contact the KY Contact Center (811).

The DR is included as Attachment 1.

INVESTIGATION

On 04/12/22 the Excavator, Total Ground Solutions' Matt Gruber, stated that they were aware of where the gas line was, the dozer involved was being moved from one excavation site to another, no excavation was occurring, the dozer tracks sunk into the ground/mud resulting in the damage. Mr. Gruber stated that additional research was warranted and he would call back.

On 04/12/22, via email, the Operator, Duke's Tyler Shelton, stated that the photographs and description indicates the Excavator was stripping/grading/leveling this space. Mr. Shelton provided the following documents:

- <u>Damage Investigation Findings with Photographs:</u> The investigation has been outlined in the DR Summary and Attachment 1. The investigation Report indicates that the Excavator was operating on Rock Construction's locate ticket. Matt of Total Ground Solutions stated, "We were excavating with Rock Construction on-site". *Note:* The Photographs indicate that excavation occurred at the damage site due to the pilled/pushed up dirt.
- Invoice: Indicating the Excavator was billed \$5,076.28 for the damage repair.

The documents are included as Attachment 2.

PIPELINE DAMAGE INVESTIGATION REPORT

On 04/14/22, 811, April Butler and/or Carly Dunsmore, conducted a search from 04/01/21 thru 05/26/21 finding no valid Loacte Ticket (LT) for Total Ground Solutions or Rock Construction at the incident location on the incident date of 05/20/21.

The 811 email is included as Attachment 3.

On 04/14/22 Mr. Shelton stated that the Excavator has pad for the damage repairs.

Mr. Shelton's email is included as Attachment 4.

On 04/18 & 19/22 a follow up call to Mr. Gruber resulted in a message stating the mailbox is full.

Due to the inability to reconnect with Mr. Gruber a Demand Letter requiring the attendednce to the Damage Prevention Course and payment of the reduced penalty of \$250.00 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 1st Offence Date (Last Offence Date +366 Days)
1 st	See above	05/20/21	05/21/22

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



Gas Excavation Damage Report

Duke Energy Kentucky, Inc.

Submitted 6/17/2021 Incident ID: 53705 Set back to Edit Staff Edit

Print (PDFForm.aspx?Rpt=GasInvestigation&IG=53705)

Reported By:

Name: Ronya Nabors

(704) 576-8155 Phone:

Email: ronya.nabors@duke-energy.com

Gas Line Incident Occured:

5/20/2021 Date:

Time: 7:40 AM

Details:

Reported Date: 6/16/2021 9:33 AM

Incident Location Address:

2344 Amsterdam Rd - 464206 Location:

Address: 2344 Amsterdam Rd

City: Villa Hills

State: ΚY

County: Kenton

41017 Zip: Confirm Code:

Number of Customers out:

Was gas or hazardous liquids contained in the underground facility?

Was gas or hazardous liquids released into the

V atmosphere?

3/2020

Locate Request Ticket No.:

Excavator: Contractor

Excavator Address:

First Name:

Last Name: Gruber

Organization ID:

Company: **Total Ground Solutions**

Phone: 419-467-3357

Email:

Address: 25559 Eckel Rd

City: Perrysburg

ОН State: 43551 Zip:

Confirm Code:

Excavation Damage: No notification made to the One

Call Center

Description of Incident Contractor struck UG gas service without ticket

Summary Information

6/17/2021

Total Ground Solutions was performing a large lot leveling procedure for the general contractor of Ridge Stone Builders & Developers in prep for a future

cause

Full details such as the roadway reconstruction near the above stated location. During the lot leveling excavation process Total Ground Solutions came into contact with and thus damaged an underground natural gas facility owned by Duke Energy Company. Total Ground Solutions failed to request or obtain a locate ticket via USIC 811 one-call center prior to commencing excavation.

Contractor struck UG gas service

Extent of the damage Cost of the damage Steps taken to prevent re-occurance Amount billed to excavator

\$0.00

\$0.00



Tout, Eric V (PSC)

From: Shelton, Tyler <Tyler.Shelton@duke-energy.com>

Sent: Tuesday, April 12, 2022 11:12 AM

To: Tout, Eric V (PSC)

Subject: RE: [EXTERNAL] 53705, 5/20/2021, 2344 Amsterdam Rd., Villa Hills, Total Ground Solutions

Attachments: 464206 - Claim Support Package.pdf

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

Hello Eric,

From the description and pictures, Total Ground was stripping/grading/leveling this space, which is a form of excavation. It sounds like they stripped enough material off the surface that may have contributed to allowing heavy machinery to damage our facilities. Bottom line, they were removing/moving earth to level this site without an excavation ticket, which likely put our facilities in a shallow/compromised position. The attached is all the pictures we have on this.

Thanks,

Tyler

From: Tout, Eric V (PSC) <ericv.tout@ky.gov> Sent: Tuesday, April 12, 2022 10:55 AM

To: Shelton, Tyler <Tyler.Shelton@duke-energy.com>

Subject: [EXTERNAL] 53705, 5/20/2021, 2344 Amsterdam Rd., Villa Hills, Total Ground Solutions

*** CAUTION! EXTERNAL SENDER *** STOP. ASSESS. VERIFY!! Were you expecting this email? Are grammar and spelling correct? Does the content make sense? Can you verify the sender? If suspicious report it, then do not click links, open attachments or enter your ID or password. Hello Tyler,

Total Ground Solutions stated that they were aware of where the gas line was, the dozer involved was being moved from one excavation site to the other, no excavation was occurring, the dozer tracks sunk into the ground/mud resulting in the damage. Is this correct? If not send evidence.

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



Damage Investigation Findings

PRG CLAIM: DK-464206

 DATE OF OUTAGE:
 05/20/2021
 07:40 AM

 NOTIFICATION:
 05/20/2021
 07:52 AM

 ARRIVAL:
 05/20/2021
 09:41 AM

 LOCATION:
 2344 Amsterdam Rd, Villa Hills, KY 41017

LOCATE TICKET: NONE

INVESTIGATOR: Christopher Hogle

SUMMARY

On Thursday, May 20, 2021, I was notified by Duke Energy about damage at 2344 Amsterdam Rd, Villa Hills, KY 41017. Duke Energy's Underground Facilities were damaged at the above stated location by a Backhoe.



STATEMENTS

USIC Damage Investigation Report# 22320210520001 - "Cause Factor: No Ticket/Locate Request"

Eric / Ridge Stone Builders & Developers - "Total Ground Solutions was hired to perform a mass lot leveling process on May 20th. While they were leveling a large portion of the land they accidentally hit a gas line. Duke Energy then repaired the line."

Matt / Total Ground Solutions - "We were on-site leveling the land and during the lot leveling we hit a gas service because it was only about 6 to 7 inches deep into the soil. We were excavating with Rock Construction on-site. Rock Construction called in all the locate tickets and we worked on theirs."

DETERMINATION

It has been determined that on May 20th, 2021, Total Ground Solutions was performing a large lot leveling procedure for the general contractor of Ridge Stone Builders & Developers in prep for a future roadway reconstruction near the above stated location. During the lot leveling excavation process Total Ground Solutions came into contact with and thus damaged an underground natural gas facility owned by Duke Energy Company. Total Ground Solutions failed to request or obtain a locate ticket via USIC 811 one-call center prior to commencing excavation.

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

Failure to notify the One Call Center







464206 - Investigator 1. jpeg



464206 - Investigator2.jpeg



464206 - Investigator3.jpeg



464206 - Investigator4.jpeg



464206 - Investigator5.jpeg

464206 - Investigator6.jpeg

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464206 - Investigator7.jpeg

464206 - Investigator8.jpeg





464206 - Investigator9.jpeg

464206 - Investigator10.jpeg





464206 - Investigator11.jpeg







464206 - Investigator14.jpeg





464206 - Investigator15.jpeg

464206 - Investigator16.jpeg





464206 - Investigator17.jpeg

464206 - Investigator18.jpeg

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464206 - Investigator19.jpeg

464206 - Investigator20.jpeg





464206 - Investigator21.jpeg

464206 - Investigator22.jpeg





464206 - Investigator23.jpeg

464206 - Investigator24.jpeg

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464206 - Investigator25.jpeg



464206 - Investigator26.jpeg



464206 - Investigator27.jpeg





464206 - Investigator29.jpeg

464206 - Investigator30.jpeg

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Property of United States Infrastructure Corporation Photo created on 05/21/2021 14 08 19 PM EDT

464206 - Locate Damage1.JPG

464206 - Locate Damage2.JPG



INVOICE



Please Make Check Payable to: Project Resources Group

Remit to: Project Resources Group, Inc.

Attn. Damage Claims 5690 DTC Blvd, Suite 650 E Greenwood Village, CO 80111

EIN: 84-1576547

Invoice # DK-464206

Date: August 9, 2021
Terms: Due Upon Receipt

Conf. Code # 8HSDF

Responsible for Damages:

Total Ground Solutions 25559 Eckel Rd Perrysburg, OH 43551 Date & Address Where Damage Occurred:

5/20/2021 2344 Amsterdam Rd Villa Hills, KY 41017

Labor and Materials	Costs:			
		<u>Units</u>	Unit Rate	<u>Amount</u>
Internal Labor Costs				
	Service Mechanic A	4.50	76.69	\$345.10
	Gas Systms Opr Mech lii	3.00	72.30	\$216.90
	Mechanic Iii - C&M (12049)	5.00	35.79	\$178.95
	Service Mechanic A	3.50	82.82	\$289.87
	Service Mechanic A	3.50	82.82	\$289.87
	Mechanic Operator I	5.00	73.32	\$366.60
	Service Mechanic A	5.00	82.82	\$414.10
	Mechanic Iii - C&M (12049)	5.00	35.31	\$176.55
	Gas Systms Opr Mech Iii	3.00	72.91	\$218.73
	Supervisor	4.40	94.34	\$415.09
	Emergency Call Out	1.00	250.00	\$250.00
	Srw Utility, Stake, Flat 4X4	4.50	40.10	\$180.45
	Drw 10-15K Utility, Stake, Flat, Dump 4X2	3.00	37.53	\$112.59
	Drw 15-26K Utility, Stake, Flat, Dump 4X4	5.00	53.04	\$265.20
	Pickup 1/2 Ton 4X2	3.00	32.50	\$97.50
	Damage Investigation/Quality Control	1.00		\$1,016.00
	Sub-Total			\$4,833.50
Material Costs				
	Coupling; Pipe; 2" lps; Electrofusion; 80 Lb @	2.00	8.08	\$16.16
	Pipe; 2" lps; 250' Lg; Plain Ends; Extruded;	5.00	1.29	\$6.45
	Sub-Total			\$22.61
Loss of Gas				
	Sub-Total			\$220.17
	Invo	oice Total		\$5,076.28
				========

Please Make Check Payable to: Project Resources Group

For questions regarding this invoice, please contact: Stacey Mobley, (720) 900-2606 or via email smobley@prgconsulting.net



Tout, Eric V (PSC)

From: Ticket Research < ticketresearch2@usa811.org>

Sent: Thursday, April 14, 2022 8:55 AM

To: Tout, Eric V (PSC)

Cc: PSCrequest@kentucky811.org

Subject: Re: 53705

Good Morning,

We searched for tickets from April 1st through May 26nd, 2021 but were unable to find any tickets submitted on 2344 Amsterdam Rd in Villa Hills, Kenton County, for the excavator Total Ground Solutions or Rock Construction. 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 8:45 AM Tout, Eric V (PSC) < <u>ericv.tout@ky.gov</u>> wrote:

Please provide locate ticket(s) for:

Incident Date: 5/20/2021 (Provided the date range for the search)

Operator: Duke Energy

Incident Location: 2344 Amsterdam Rd, Villa Hills

County: Kenton

Excavator: Total Ground Solutions and/or Rock Construction

Thanks,

Eríc V. Tout

Kentucky Public Services Commission

Division of Inspections / Damage Prevention

211 Sower Blvd., Frankfort, XY 40601

Office: 502-782-2622

Fax: 502-564-1582



Tout, Eric V (PSC)

Fax: 502-564-1582

From: Shelton, Tyler <Tyler.Shelton@duke-energy.com>

Sent: Thursday, April 14, 2022 11:02 AM

To: Tout, Eric V (PSC)

Subject: RE: [EXTERNAL] 53705, 5/20/2021, 2344 Amsterdam Rd,. Villa Hills, Total Ground Solutions

Yes, this damage was paid in full.

From: Tout, Eric V (PSC) <ericv.tout@ky.gov> Sent: Thursday, April 14, 2022 8:42 AM

To: Shelton, Tyler <Tyler.Shelton@duke-energy.com>

Subject: [EXTERNAL] 53705, 5/20/2021, 2344 Amsterdam Rd,. Villa Hills, Total Ground Solutions

*** CAUTION! EXTERNAL SENDER *** STOP. ASSESS. VERIFY!! Were you expecting this email? Are grammar and spelling correct? Does the content make sense? Can you verify the sender? If suspicious report it, then do not click links, open attachments or enter your ID or password. Hello Tyler,

Need confirmation that the Excavator paid for the damage repairs.

Thanks, Eric V. Tout Kentucky Public Services Commission Division of Inspections / Damage Prevention 211 Sower Blvd., Frankfort, KY 40601 Office: 502-782-2622

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APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2022-00257 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

Total Ground Solutions, LLC c/o Bruce One Seagate, Suite 1645 Toledo, OHIO 43604

Total Ground Solutions, LLC c/o Matt Gruber PO Box 482 Holland, OHIO 43528