#### COMMONWEALTH OF KENTUCKY

#### BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CHAU HOME IMPROVEMENT

ALLEGED VIOLATION OF UNDERGROUND FACILITY DAMAGE PREVENTION ACT

CASE NO. 2022-00261

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

Chau Home Improvement 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).<sup>1</sup> 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

<sup>&</sup>lt;sup>1</sup> 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 Chau Home Improvement 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 Chau Home Improvement 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. Chau Home Improvement 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. Chau Home Improvement 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

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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. Chau Home Improvement 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. Chau Home Improvement shall notify the Commission at least ten days prior to the hearing if Chau Home Improvement 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 53698, 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.

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PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman latke Commissioner



ATTEST:

Bridered

Executive Director

Case No. 2022-00261

## APPENDIX A

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2022-00261 DATED AUG 23 2022

NINETEEN PAGES TO FOLLOW

#### PIPELINE DAMAGE INVESTIGATION REPORT

#### **Investigation Information**

Investigator Incident Date	Eric Tout 5/28/2021 7:02:00 PM	Incident ID 53698 I Report Submitted	nvestigation 8646 6/21/2021
	Operato	r Information	
Operator Phone	Columbia Gas of Kentucky, Inc. (859) 537-2123	Reported By Email	James Rice JamesRice@NiSource.com
Incident Location	344 Nelson Ave Lexington KY 40508	Locate Ticket Number	n/a
County	Fayette		
	Excavato	or Information	
Excavator	Alan Chau Chau Home Improvement	Organization ID	
Phone Address	859-797-7220 306 Anza Ln Nicholasville KY 40356	Email Locate Ticket Number	n/a

#### **Damage Report Summary**

Excavation Within 18"	Gas Or Hazardous Liquids		Type Of Equipment Used	Cost of	Amount
(Tolerance Zone)	Contained	Released	Type of Equipment Osed	Damage	Billed
No call to 811		Yes	Mechanized/Not specified	\$800.00	\$800.00

The Operator reports the Excavator damaged a one-inch gas service with mechanized equipment, installing electric and failed to contact the KY Contact Center (811). **The DR is included as Attachment 1.** 

#### **INVESTIGATION**

On 04/19/21, 811, April Butler, conducted a search from 04/01/21 thru 05/31/21 and found no Locate Tickets (LT) for the excavator for the address of 344 Nelson Ave. on the incident date of 05/28/21. Ms. Butler did provided a LT 2105281770, for 342 Nelson Ave., next door, and the request was for the area left of 342 which may include a shared easement between the two addresses.

	LT Summary						
Ticket # For Initial Date		Expiration Date (21 calendar days from Initial date)	Incident Date	# of Days Expired	Within Scope of Excavation		
	2105281770	342 Nelson Ave.	05/28/21 19:52	06/18/21	05/28/21 19:07	N/A / Obtained 50min. after damage	Unknown

A review of LT...1770 revealed it was obtained by the Excavator on 05/28/21 at 19:52 and the incident occurred on the same date at 19:02 indicating the LT was obtained 50min. after the damage occurred. *Note:* If it was determined the damage occur within the scope of LT...1770 this ticket would not be valid due to it being obtained after the damage took place.

#### Ms. Butler's email and the LT are included as Attachment 2.

Note: In reference to this Incident, 53698, 344 Nelson Ave., was assigned out of sequence making this incident the second, the first being incident 53697, 342 Nelson Ave.

#### PIPELINE DAMAGE INVESTIGATION REPORT

On 04/19/22, in reference to this incident, 53698, the Excavator, Chau Home Improvement's Alan Chau, stated that he always calls 811 prior to excavating, but could not provide a LT number due his record keeping not extending that far back. Staff informed Mr. Chau of 811's search results (see attachment 2) and Mr. Chau stated again that he held a valid LT at the time of the damage. Staff, being unaware incident 53697 and 53698 were assigned out of sequence, offered Mr. Chau the reduced penalty of \$250.00 and attendance to the Damage Prevention Course for this incident, 53698 and Mr. Chau stated that he is not at fault, he has an attorney and if the penalty was a \$1,000,000.00 he would not pay because he has done nothing wrong. This incident, 53698, is Chau Home Improvement's second offence imposing the penalty of \$2,000.00.

On 04/22/22 Staff conducted a follow up telephone call informing Mr. Chau that this incident, 53698, is the second offence and Incident 53697 is Chau Home Improvement's first offence resulted in Mr. Chau stating he always calls 811 prior to excavating and he could not provide a LT. Mr. Chau again stated that he did nothing wrong and would go to a hearing.

On 04/27/22, the Operator, Columbia's James Rice, provided the following documents:

- PSC Gas Excavation Damage Report: Which are outlined in the DR Summary and Attachment 1.
- Photograph 1: Depicting the damage.
- <u>Claim Invoice and Letter</u>: Indicating the Excavator was billed \$1,047.98 for the damage repair with no confirmation it was paid.

#### Columbia's documents are included as Attachment 3.

Due to Mr. Chau's response a Demand will be sent imposing the penalty of \$2,000.00, second offence.

#### VIOLATIONS<sup>1</sup>

**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

Excavator	Last Offence	Last Offence Incident	Revert to 1 <sup>st</sup> Offence Date
	Incident #	Date	(Last Offence Date +366 Days)
2 <sup>nd</sup>	53697	5/27/2021	05/28/21

<sup>&</sup>lt;sup>1</sup> 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=53698)

## Gas Excavation Damage Report

## Columbia Gas of Kentucky, Inc.

Submitted 6/21/2021 Incident ID: 53698

Set back to Edit Staff Edit

 Reported By:

 Name:
 James Rice

 Phone:
 (859) 537-2123

 Email:
 JamesRice@NiSource.com

 Gas Line Incident Occured:
 Date:

 Date:
 5/28/2021

 Time:
 7:02 PM

 Detaills:

 Reported Date:
 6/16/2021 8:57 AM

Incident Location Address:

Location:		
Address:	344 Nelson Ave	
City:	Lexington	
State:	КҮ	
County:	Fayette	
Zip:	40508	
Confirm Code:	Υ	
Number of Customers ou	<b>t</b> : 1	
Was gas or hazardous liquids contained in the underground facility?		
Was gas or hazardous liquids released into the atmosphere?	$\checkmark$	* 3/2020
Locate Request Ticket No	<b>.:</b> n/a	
Excavator:	Contractor	

#### Excavator Address:

First Name:	Allan
Last Name:	Chau
Organization ID:	
Company:	Chau Home Improvement
Phone:	859-797-7220
Email:	

Address:	306 Anza Ln
City:	Nicholasville
State:	KY
Zip:	40356
Confirm Code:	Υ
Excavation Damage:	No notification made to the One Call Center
	Chau Home Improvement struck a plastic one inch natural gas service line with mechanized equipment.
Summary Information	

6/21/2021
-----------

	Chau Home Improvement was excavating without a locate ticket. While using mechanized equipment (excavator) to install electric, Chau Home Improvement struck and damaged a plastic one inch natural gas service line.
	A plastic one inch natural gas service line was punctured, and the service line was capped at the curb valve.
Cost of the damage	\$800.00
Steps taken to prevent	CKY employees advised Chau Home Improvement to always call 811 prior
re-occurance	to any excavating activities.
Amount billed to excavator	\$800.00

# Attachment 2

### Tout, Eric V (PSC)

From:	Ticket Research < ticketresearch2@usa811.org >
Sent:	Tuesday, April 19, 2022 8:09 AM
То:	Tout, Eric V (PSC)
Cc:	PSCrequest@kentucky811.org
Subject:	Re: 53698
Attachments:	2105281770.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,

We searched for tickets from April 1st through May 31st, 2021 but were unable to find any tickets submitted on 344 Nelson Ave for the excavator Chau Home Improvement but we did find for 342 Nelson Ave next door, and the request was for the area left of 342 which could include a shared easement between the two addresses. I have attached the ticket for 342 Nelson. If you have any more information, we would be happy to assist you further.

Thank you, April Butler, *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

Thank you, April Butler & Carly Dunsmore, Member Services

Office <u>833-538-0923</u> | Fax <u>317-386-7820</u>

#### Know what's below. 811 before you dig.

Indiana811 | Facebook | Twitter | YouTube

Kentucky811 | Facebook | Twitter | YouTube

#### <u>.gov</u>> wrote:

On Tue, Apr 19, 2022 at 7:59 AM Tout, Eric V (PSC) < <u>ericv.tout@ky.gov</u>					
Please provide locate ticket(s) for:					
Incident Date:	5/28/2021	(Provided the date range for the search)			
Operator:	Columbia				
Incident Location:	344 Nelson A	Ave., Lexington			
County:	Fayette				
Excavator:	Chau or Chov	v Home Improvement			
Thanks,					
Eríc V. Tout					
Kentucky Public S	Servíces Com	mission			
Division of Inspec	tíons / Dam	age Prevention			

211 Sower Blvd., Frankfort, KY 40601

Office: 502-782-2622

Fax: 502-564-1582

#### Ticket

NORMAL NOTICE Ticket : 2105281770 Date: 05/28/2021 Time: 19:52 Oper: KENTUCKY811 Chan:000 State: KY Cnty: FAYETTE City: LEXINGTON Subdivision: Address : 342 Street : NELSON AVE Cross 1 : E 3RD ST Location: WHEN FACING PROPERTY FROM THE DIG STREET LOCATE THE LEFT SIDE OF PROPERTY : Boundary: n 38.044642 s 38.042279 w -84.483197 e -84.479971 Work type : INSTALL ELECTRIC/WATER/SEWER Done for : CHAU HOME IMPROVMENT Start date: 06/03/2021 Time: 07:00 Hours notice: 131/48 Priority: NORM Ug/Oh/Both: U Blasting: NO Emergency: N Duration : N/A Depth: 3 FT Company : CHAU HOME IMPROVMENT Type: CONT Co addr : 306 ANZA LANE City : NICHOLASVILLE State: KY Zip: 40356 Caller : ALAN CHAU Phone: (859)797-7220 Contact : ALAN CHAU - CELL Phone: Mobile : (859)797-7220 Email : DANNYCHAU70@YAHOO.COM Submitted date: 05/28/2021 Time: 19:52

2621

WINKY

Members: 0139 0200 0237 0326 0370 0700

https://811.kentucky811.org/tickets/search

Ticket

### \* Responses are current as of 04/19/2022 08:03 AM

Service Area	<u>Utility Type(s)</u>	Customer Service Contact	Positive Response
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	Clear - No conflict
KENTUCKY UTILITIES (ONLY ADD IF IN THIS COUNTY) 0326	ELECTRIC	KENTUCKY UTILITIES CUSTOMER SERVICE (800) 981-0600	Clear - No conflict
KENTUCKY AMERICAN WATER COMPANY 0370	WATER		Marked - Underground facilities are in conflict.
METRONET FIBER NETWORK	COMMUNICATIONS		Clear - No conflict
COLUMBIA GAS 2621	PIPELINE	COLUMBIA GAS CUSTOMER SERVICE (800) 432-9345	
WINDSTREAM KENTUCKY INC WINKY	TELEPHONE		

# Attachment 3

#### Tout, Eric V (PSC)

From:	Rice \ James \ D <jamesrice@nisource.com></jamesrice@nisource.com>
Sent:	Wednesday, April 27, 2022 10:11 AM
То:	Tout, Eric V (PSC)
Subject:	RE: 53698, 5/28/2021, 344 Nelson Ave., Lexington, Chau Home Improvement
Attachments:	344 Nelson Av 5_28 - Lex - No notification made to 811.pdf; KY21-1086 Claim Invoice.pdf; KY21-1086 Claim Letter.pdf; 344
	Nelson Av #2 - 8.JPG

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

#### Good morning Eric,

See attached.

-james

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Wednesday, April 27, 2022 7:01 AM
To: Rice \ James \ D <jamesrice@nisource.com>
Subject: RE: 53698, 5/28/2021, 344 Nelson Ave., Lexington, Chau Home Improvement

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.

Doing follow up, see email below.

Thanks, Eric

From: Tout, Eric V (PSC)
Sent: Tuesday, April 19, 2022 12:15 PM
To: JamesRice@nisource.com
Subject: 53698, 5/28/2021, 344 Nelson Ave., Lexington, Chau Home Improvement

Hello James,

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



## **PSC Gas Excavation Damage Report**

### **Excavation Damage Occurred**

Date: 05/28/2021 Time: 7:02 PM ?? JO #: 21-9148229-00

#### **Incident Location**

Address: 344 Nelson Av 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: Allan Last Name: Chau Company: Chau Home Improvement Phone: 859-797-7220 Email: Unknown Address: 306 Anza Ln City: Nicholasville State: KY Zip: 40356



#### **Incident Details**

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

Columbia DIMP Root Cause: Failed To Notify One Call/Failure to call one call center

**Description of Incident:** Chau Home Improvement struck a plastic one inch natural gas service line with mechanized equipment.

**Full details such as the cause:** Chau Home Improvement was excavating without a locate ticket. While using mechanized equipment (excavator) to install electric, Chau Home Improvement struck and damaged a plastic one inch natural gas service line.

**Extent of the damage:** A plastic one inch natural gas service line was punctured, and the service line was repaired.

Cost of the damage: \$800

**Steps taken to prevent re-occurrence:** CKY employees advised Chau Home Improvement to always call 811 prior to any excavating activities.

Amount billed to excavator: \$800





A NiSource Company

3101 N Ridge Road E Lorain, Ohio 44055

07/08/2021

(216-339-7856

Chau Home Improvements 306 Anza Ln Nicholasville, Kentucky 40356

Columbia Gas of Kentucky, Inc. Damage Prevention Support

Re: Our Claim: KY21-1086

Gentlemen,

Enclosed is our damage claim invoice in the amount of \$1,047.98, which is the expense our company incurred as the result of your contact with our facilities, located in the vicinity of 344 Nelson Av, Lexington, Kentucky 40508. Our reports indicate that our facilities were damaged on 05/28/2021.

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 drmiller@NiSource.com

Enclosure

# Columbia Gas/NiSource

CLAIM NO.: KY21-1086	JOB ORDER NO	<b>).:</b> 21-9148229-00	DATE: July 08, 2021
MRA ACCOUNT NUMBER: 21021895-	000-001-5	PAYMENT DUE 28 DA PLEASE MAKE REMITT	YS FROM ABOVE DATE ANCE PAYABLE TO:
Chau Home Improvements		Columbia Gas / NiSource	
306 Anza Ln Nicholasville, Kentucky 40356		Lorain, Oł	idge Rd. E. nio 44055 mage Prevention Support

AMOUNT DUE \$1,047.98

PLEASE CUT HERE AND RETURN TOP WITH PAYMENT

Itemization of the charges for the damages which occurred on 05/28/2021 in the vicinity of 344 Nelson Av, Lexington, Kentucky 40508.

ITEMS		AMOUNT
Labor		\$424.46
Materials		\$22.41
Equipment		\$480.77
Gas Loss		\$119.00
Contracted Fees		\$0.00
Taxes		\$1.34
1	TOTAL EXPENSE	\$1,047.98

Notes:

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



# Columbia Gas/NiSource

CLAIM NO.: KY21-1086

**JOB ORDER NO.:** 21-9148229-00

DATE: July 08, 2021

## APPENDIX B

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2022-00261 DATED AUG 23 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

\*Chau Home Improvement c/o Allan Chau 306 Anza Lane Nicholasville, KENTUCKY 40356