

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|----------------------------------|---|------------|
| JOHNNIE EAKINS |) | |
| |) | |
| _____ |) | CASE NO. |
| |) | 2022-00256 |
| ALLEGED VIOLATION OF UNDERGROUND |) | |
| FACILITY DAMAGE PREVENTION ACT |) | |

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

(Se proporciona la traducción al español de este documento como anexo/apéndice.)

Johnnie 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 January 27, 2023.

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

¹ KRS 367.4901 through KRS 367.4917.

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, 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 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. Mr. Eakins shall appear on January 27, 2023, at 9 a.m. Eastern Standard 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 January 27, 2023 hearing shall be conducted via video conferencing.

4. Mr. Eakins shall attend the hearing by using the following link: <https://meet.goto.com/pscformalhearing/psc-damage-prevention-hearing>; 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 January 27, 2023 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


Commissioner



ATTEST:


Executive Director

APPENDIX A

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

TWENTY-EIGHT PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Eric Tout **Incident ID** 53679 **Investigation** 8621
Incident Date 5/15/2021 9:35:00 AM **Report Submitted** 6/10/2021

Operator Information

Operator Louisville Gas and Electric Company (LG&E) **Reported By** Mike Jones
Phone (502) 364-8281 **Email** Mike.Jones@lge-KU.com

Incident Location 9310 Ash Ave **Locate Ticket Number** NA
Pewee Valley KY 40056

County Oldham

Excavator Information

Excavator Johnnie Eakins **Organization ID**
Johnnie Eakins
Phone 502-593-9566 **Email**
Address 2814 S 4th St **Locate Ticket Number** NA
Louisville KY 40208

Damage Report (DR) Summary

| Excavation Within 18" (Tolerance Zone) | Gas Or Hazardous Liquids | | Type Of Equipment Used | Cost of Damage | Amount Billed |
|---|--------------------------|----------|------------------------|----------------|---------------|
| | Contained | Released | | | |
| 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:

- Facts-Based Investigation & Incident Field Investigation Report: Which are outlined in the DR Summary and Attachment 1.
- Photographs -10: Depicting the incident location
- Invoice: 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 1st 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

Gas Excavation Damage Report

Louisville Gas and Electric Company

Submitted 6/10/2021 Incident ID: 53679

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=53679\)](#)

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 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.: 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 ?Excavator/"friend" trenching for street light.

Summary Information

6/10/2021

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

Attachment 2

Tout, Eric V (PSC)

From: Jones, Mike (Auburndale) <Mike.Jones@lge-ku.com>
Sent: Thursday, April 14, 2022 10:17 AM
To: Tout, Eric V (PSC)
Subject: RE: 53679, 5/15/2021, 9310 Ash Ave, Pewee Valley, Johnnie Eakins
Attachments: 2021052008-01.pdf; digitix_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 ServiceCorrespondence@ky.gov 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.



Facts-Based Investigation

Internal Claim ID: INC-20210515-001 Customer Claim ID: _____
Site Investigator: Tracy Reesor Notified At: 05/15/21 10:03:00
Notified By: Gas Operations Dispatch 5025891444
Damage Location: 9310 Ash Ave Pewee Valley KY 40056
Incident Time: 05/15/21 10:30:00

Original Locate Request: None found Assigned Locator: _____
Locate Request Due: _____ Locate Request Completed: _____
Photos Taken Before Damage? N
Photos Taken of Damage Site? Y

Type and Size of Damaged Utility: Natural Gas Service/Drop 1
Depth: 18" to < 36" (0.5 to < 1m)
Description and Extent of Damage: Contractor "helping a friend" trenching for electric street light at rear of driveway, damaged unmarked 1 inch pl gas service. No BUD.

Equipment Used: Trencher
Excavation Company Name: Johnnie Eakins
Company Address: 2814 S 4th St, Louisville, KY 40208
Phone: 5025939566 Contact Name: Johnnie Eakins
Working For: _____
Repair Company: LG&E
Personal Injury: N 3rd Party Property Damage: N Evacuations: N Other: N
Impact Comments: _____

Was Locate requested?: N Locate Request Completed?: N
Locate Accurate (Within Tolerance Zone): N If No, Distance Markings Off: No marks
Marks Visible at Time of Damage: N Damage Within Scope of Ticket: N



Facts-Based Investigation

Repair Contact Name: Dustin Hartlage Phone: _____

Repair Comments: Crew to make repairs

Witness: _____ Phone: _____

Comments: _____

Witness: _____ Phone: _____

Comments: _____

Root Cause Explanation: _____

Responsible Party: Johnnie Eakins

Responsible Party Comments: Johnnie Eakins
502-5939566
2814 S 4th st
40208

Dan Corbin stepped in and said to bill him for damage, not Johnnie.
502-224-6640
5059 Terry Rd
40216

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 Issue

Cause Code: No notification made to One-Call Center / 811

Damage Claims Manager: _____





Incident Field Investigation Report — Gas

0639.49



a PPL company

Damage report # 2021052008
Is this related to a capital project? Yes No
G# 071321571

Project/task OTPD-419 / MAINT
Resp. ctr. AOC

Damage to company facilities

Date of incident 5-15-2021 Time 10:12 a.m. p.m. Police report # _____
Address/location of damage 9310 Ash Ave ZIP code 40056
Subdivision name _____
Time dispatched 9:35 a.m. p.m. Time of completion 1:30 a.m. p.m.
Who caused damage? Johnnie Eakins
Address of party causing damage 2814 S 4th St (Street) Louisville (City) KY (State) 40208 (ZIP)
Phone number of party causing damage (502) 593-9566 (Area code) (Number)
Was party causing damage still on the job? Yes No If yes, who was in charge? Johnnie Eakins
If no, how did you obtain name of party causing damage? _____
What was damaged? Company main Customer service Company service Other _____
What type of work was being performed? trenching for drainage
Party's explanation for damage "helping a friend"
What repairs were made? Repaired 1" GAS plastic service
Any additional work to be performed? Yes No If yes, by whom? _____ Number of customers out 1

Possible damage to others

Date of incident _____ Time _____ a.m. p.m.
What was damaged? _____
What was LG&E doing at this location? _____
Description of damage _____
Owner of property _____ Phone (_____) _____ (Area code) (Number)
Owner's address _____ (Street) _____ (City) _____ (State) _____ (ZIP)
To whom was damage reported? _____
Was an LG&E contractor notified? Yes No If yes, name of contractor _____
Is the LG&E contractor responsible for the damage? Yes No
Were photos taken? Yes No If yes, from whom can the photos be obtained? _____
Were there any injuries? 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 NO BUD
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
(Date of report)

[Signature]
(Signature of employee)
Approved [Signature]

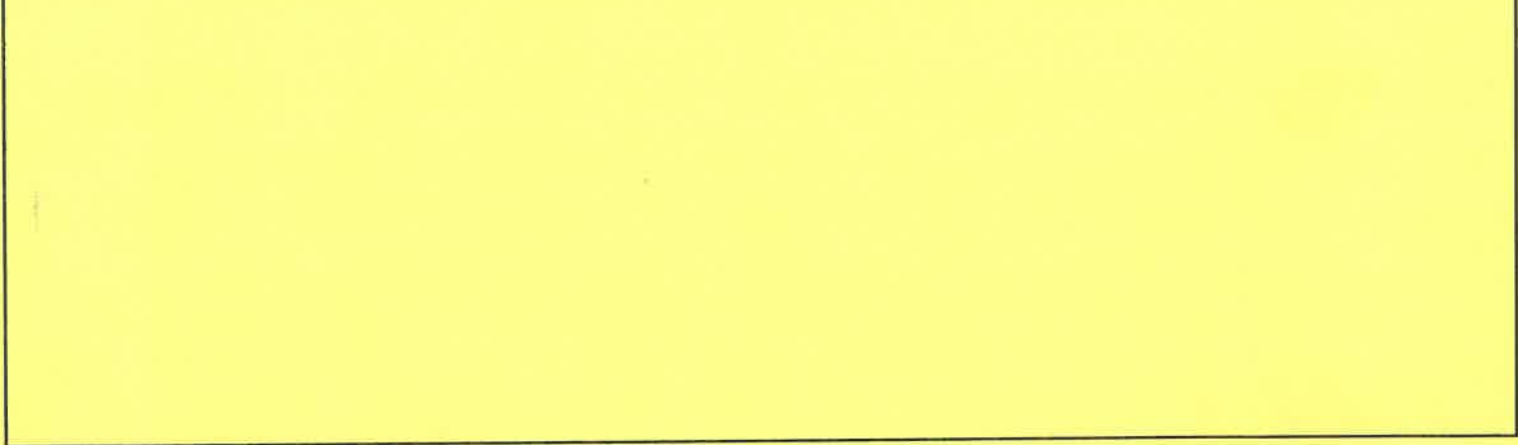
6028316
(Employee number)
Date 5-18-21

Put any additional comments on back

Comments: Repaired 1" cts customer service - Replaced 2' of pipe & used 2 - #1" permaserts as fix for

| Crew Personnel | Employee # | ST Hours | OT Hours | DT Hours | Unit # | Equipment |
|----------------|------------|----------|----------|----------|--------|---|
| Dustin Hufflye | E028315 | 2.5 | | | 8372 | <input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota |
| Barth Redford | E028316 | 3 | | | 4870 | <input checked="" type="checkbox"/> Backhoe <input type="checkbox"/> Kubota |
| Saksan parras | E029682 | 3 | | | | <input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota |
| | | | | | | <input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota |
| | | | | | | <input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota |
| | | | | | | <input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota |
| | | | | | | <input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota |
| | | | | | | <input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota |
| | | | | | | <input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota |
| | | | | | | <input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota |
| | | | | | | <input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota |
| | | | | | | <input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota |

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



| Material Used | | |
|---------------|---|----------------|
| Qty. | Material | IIN# |
| | ft. Pipe PE 2406: 1/2" IPS | 1170051 |
| 2 | ft. Pipe PE 2406: 1" CTS | 1170078 |
| | ft. 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 |
| 2 | ea. 1" CTS Permasert coupling | 0394935 |
| | ea. 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 10:30:05
38.2677051,-85.4735045



2021-05-15 10:30:21
38.2877015,-85.4735719









2021-05-15 10:38:54
36,2880007,-85,4733657

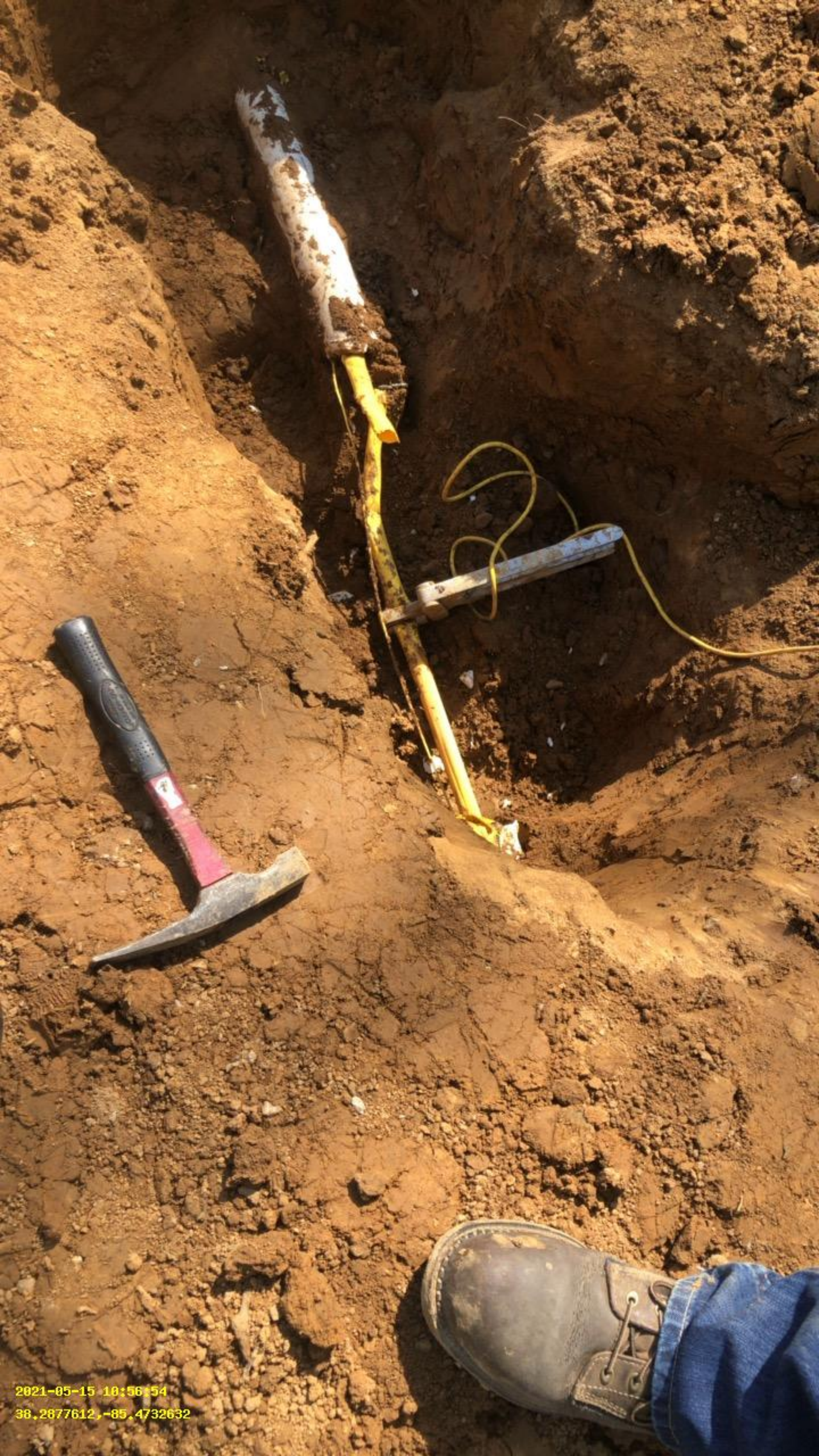




2021-05-15 10:40:25
38.2881406,-85.4733356



2021-05-15 10:56:38
38.2876613,-85.433843



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: OTPD419
 NO.:
 DTS INVOICE: 2021052008-01
 NO.:

AMOUNT DUE: **\$639.49**
 DUE DATE: **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: Damaged Customer Gas Service
 DAMAGE DATE: 05/15/2021
 DAMAGE LOCATION: 9310 Ash Ave
 Peewee Valley, KY 40056

LABOR HOURS: 8.50

LABOR COST: \$560.96

MATERIAL COST: \$20.92

TRANSPORTATION/EQUIPMENT COST: \$57.61

CONTRACTOR COST: \$0.00

OTHER DAMAGE COSTS: \$0.00

TOTAL DUE: \$639.49

Attachment 3

Tout, Eric V (PSC)

From: Member Services <memberservices@usa811.org>
Sent: Thursday, April 14, 2022 11:15 AM
To: 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](tel:833-538-0923) | Fax [317-386-7820](tel: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) <ericv.tout@ky.gov> 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,

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

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00256 DATED NOV 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. AshleyB.Rhodes@ky.gov 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://meet.goto.com/pscformalhearing/psc-damage-prevention-hearing>

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/Ubuntu (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

APPENDIX C

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

TEN PAGES TO FOLLOW

ESTADO DE KENTUCKY
ANTE LA COMISIÓN DE SERVICIOS PÚBLICOS

Concerniente:

| | | |
|--------------------------------------|---|------------|
| JOHNNY EAKINS |) | |
| |) | |
| _____ |) | CASO NO. |
| |) | 2022-00256 |
| PRESUNTA INFRACCIÓN DE LA LEY DE |) | |
| PREVENCIÓN DE DAÑOS EN INSTALACIONES |) | |
| SUBTERRÁNEAS |) | |

ORDEN DE INICIACIÓN POR LA PRESUNTA INFRACCIÓN DE TIPO 811 DE LA LEY
DE PREVENCIÓN DE DAÑOS EN INSTALACIONES SUBTERRÁNEAS DE
KENTUCKY

(Se proporciona la traducción al español de este documento como apéndice.)

Johnny Eakins ha sido implicado como parte de una investigación ante la Comisión de Servicios Públicos de Kentucky (Comisión) por la presunta infracción de la Ley de Prevención de Daños a Instalaciones Subterráneas de Kentucky (la Ley).¹ Una audiencia sobre este caso tendrá lugar el 27 de enero, 2023.

Conforme a la norma KRS 278.495(2), la Comisión tiene jurisdicción para regular la seguridad de las instalaciones de gas natural en Kentucky y para hacer cumplir las normas federales mínimas de seguridad de las tuberías. En virtud de la Ley, la Comisión tiene autoridad para investigar y evaluar las sanciones civiles por cualquier infracción de la Ley que resulte en daños de excavación a una instalación subterránea utilizada para transportar gas natural o líquidos peligrosos sujetos a las leyes federales de seguridad de tuberías, 49 U.S.C. §. 60101 *et seq.* Toda persona que infrinja cualquier disposición

¹ KRS 367.4901 a KRS 367.4917.

de la Ley está sujeta a la imposición de una sanción civil por un importe de 250 dólares por la primera infracción, no más de 1.000 dólares por la segunda infracción en el plazo de un año, y no más de 3.000 dólares por la tercera infracción y las siguientes. Además, cualquier persona cuya infracción de la ley provoque daños en una instalación subterránea que contenga cualquier material inflamable, tóxico, corrosivo o peligroso, o que provoque la liberación de cualquier material inflamable, tóxico, corrosivo o peligroso, está sujeta a una sanción adicional de hasta 1.000 dólares.

Tras recibir un informe de daños por excavación en su gasoducto subterráneo por parte de un operador, el personal de la Comisión (el Personal) llevó a cabo una investigación y preparó un Informe de Incidentes, cuya copia se adjunta a esta Orden como Apéndice A. En su Informe de Incidentes, el Personal cita a Johnny Eakins por la infracción de la siguiente disposición de la Ley:

KRS 367.4911(1)(a) Cada excavador, o persona responsable de una excavación, que planifique un trabajo de excavación o demolición deberá notificar a cada operador afectado sobre el trabajo previsto del excavador y el cronograma de trabajo no menos de dos (2) días hábiles completos ni más de diez (10) días hábiles completos antes de comenzar el trabajo. Hacer contacto con los centros de notificación de protección aplicables satisfará este requisito.

Basándose en su revisión del Informe de Incidentes y estando suficientemente informada, la Comisión encuentra pruebas prima facie de que Johnny Eakins violó la Ley de Prevención de Daños a Instalaciones Subterráneas. La Comisión considera, además, que debe llevarse a cabo una investigación formal sobre el incidente de los daños causados por la excavación.

POR LO TANTO SE ORDENA que:

1. Johnny Eakins deberá presentar a la Comisión una respuesta por escrito a las alegaciones contenidas en el Informe de Incidencia del Personal en un plazo de 20 días a partir de la recepción de esta Orden a través de un correo electrónico enviado a PSCED@ky.gov con el número de caso de este procedimiento en el asunto del mensaje

2. Johnny Eakins comparecerá el 27 del enero, 2023, a las 9 A.M. Eastern Standard Time, en la sala de audiencias Richard Raff de las oficinas de la Comisión en 211 Sower Boulevard en Frankfort, Kentucky, con el fin de presentar pruebas relativas a la supuesta violación de la Ley de Prevención de Daños a Instalaciones Subterráneas.

3. La audiencia 27 del enero, 2023 se llevará a cabo por videoconferencia.

4. Johnny Eakins deberá asistir a la audiencia utilizando el siguiente enlace: <https://meet.goto.com/pscformalhearing/psc-damage-prevention-hearing>; la información y las instrucciones se adjuntan a esta Orden como Apéndice B.

5. Johnny Eakins notificará a la Comisión, al menos diez días antes de la audiencia, si Johnny Eakins no puede comparecer por videoconferencia y, por lo tanto, comparecerá en persona.

6. Cualquier sociedad, corporación o entidad comercial (incluyendo una sociedad de responsabilidad limitada) debe ser representada por un abogado con licencia para ejercer la abogacía en Kentucky y dicha representación incluye la presentación de documentos y las comparecencias en las audiencias ante la Comisión.

7. Un individuo puede presentar una respuesta a las alegaciones contenidas en el Informe de Incidentes del Personal sin la representación de un abogado.

8. El Informe de Incidentes del Personal 53679, que se adjunta a esta Orden como Apéndice A, forma parte del expediente de este caso.

9. La audiencia 27 del enero, 2023 se grabará únicamente por vídeo.

10. **Tenga en cuenta que las partes que no comparezcan después de la notificación estarán sujetas a que se asiente una sentencia en rebeldía contra ellos.**

COMISIÓN DE SERVICIOS PÚBLICOS

Presidente

Vicepresidente

Comisionado/a

HACE CONSTAR:

Director/a Ejecutivo/a

APÉNDICE A

APÉNDICE DE UNA ORDEN DE LA COMISIÓN DE SERVICIOS
PÚBLICOS DE KENTUCKY EN EL CASO NO. 2022-00256 FECHADO

28 PÁGINA(S) A SEGUIR

APÉNDICE B

APÉNDICE DE UNA ORDEN DE LA COMISIÓN DE SERVICIOS PÚBLICOS DE
KENTUCKY EN EL CASO NO. 2022-00256 FECHADO

DOS PÁGINAS PARA SEGUIR

Información e instrucciones para la audiencia

Se le obliga a asistir a una audiencia formal con la Comisión de Servicios Públicos de Kentucky. Tenga en cuenta que la audiencia está programada en la **huso horario del este**, y que la fecha y la hora de la audiencia figuran en la Orden que acompaña a estas instrucciones.

Se le recomienda encarecidamente que descargue la aplicación GoToMeeting ahora y esté preparado para su audiencia. Si no puede comparecer por vídeo utilizando esta aplicación, debe llamar a las oficinas de la Comisión al número que se indica a continuación al menos diez días antes de la audiencia programada. Recibirá instrucciones para presentarse en persona en la sala de audiencias Richard Raff de las oficinas de la Comisión en el 211 Sower Boulevard en Frankfort, Kentucky, a la hora y fecha de su audiencia programada.

Sírvase dirigir cualquier pregunta a Ashley Rhodes, División de Inspecciones de la Comisión. AshleyB.Rhodes@ky.gov o 502-782-2578.

Para descargar la aplicación GoToMeeting vaya a:

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

El día de su audiencia utilizando su computadora, tableta o teléfono inteligente con capacidad de vídeo. **Acceda al procedimiento en:**

<https://meet.goto.com/pscformalhearing/psc-damage-prevention-hearing>

Puede encontrar más información sobre el uso de GoToMeeting en GoToMeeting - Inicio rápido del asistente

<https://www.youtube.com/embed/8VaHHVP0FCU?autoplay=1&showinfo=0&controls=0&rel=0>

GoToMeeting - Cómo unirse a una reunión

https://www.youtube.com/embed/Ojl1q_sPrP0?autoplay=1&showinfo=0&controls=0&rel=0

Requisitos técnicos para utilizar GoToMeeting

Sistema operativo:

Windows 7 – Windows 10

Mac OS X 10.9 (Mavericks) – Mac OS Big Sur (11)

Linux/Ubuntu (sólo aplicación web)

Google Chrome OS (sólo aplicación web)

iOS 11 - iOS 13

Android OS 5 (Lollipop) - Android 10

Navegador web: (Sólo se aplica a la aplicación web)

Google Chrome v72 o más reciente

Microsoft Edge v77 o más reciente

Conexión a Internet:

Computadora: 1 Mbps o superior (se recomienda la banda ancha)

Dispositivo móvil y Chromebook: 3G o superior (se recomienda WiFi para VoIP)

Software:

Aplicación de escritorio de GoToMeeting (con JavaScript activado)

La aplicación GoToMeeting de Apple Store, Google Play Store o Windows Store

Hardware:

2 GB de RAM (mínimo), 4 GB o más de RAM (recomendado)

Dispositivo de cámara web*

Micrófono y altavoces** (se recomiendan auriculares USB)

Dispositivo móvil:

iPhone 5 o más reciente

iPad de 3ª generación o más reciente

Nota: * Para comparecer en la audiencia, ES PRECISO tener una cámara en su dispositivo o conectada a él.

** La mayoría de los dispositivos tienen altavoces incorporados, pero obtendrás una mejor calidad de audio mientras estás conectado por VoIP si utilizas unos auriculares.

APÉNDICE C

APÉNDICE DE UNA ORDEN DE LA COMISIÓN DE SERVICIOS PÚBLICOS DE
KENTUCKY EN EL CASO NO. 2022-00256 FECHADO

DIEZ PÁGINA(S) A SEGUIR

Johnnie Eakins
1203 Sale Ave
Louisville, KENTUCKY 40215