

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | |
|--|--|
| EARLYWINE FENCE AND BACKYARD DESIGN,) LLC) _____) ALLEGED VIOLATION OF UNDERGROUND) FACILITY DAMAGE PREVENTION ACT) |)) CASE NO. 2022-00375)))))) |
|--|--|

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.)

Earlywine Fence and Backyard Design, LLC (Earlywine Fence) 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 Earlywine Fence 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 Earlywine Fence 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. Earlywine Fence 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. Earlywine Fence 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. Earlywine Fence 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. Earlywine Fence shall notify the Commission at least ten days prior to the hearing if Earlywine Fence 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 53823, 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. 2022-00375 DATED NOV 22 2022

THIRTY PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Eric Tout **Incident ID** 53823 **Investigation** 8758
Incident Date 7/7/2021 11:28:00 AM **Report Submitted** 8/3/2021

Operator Information

Operator Columbia Gas of Kentucky, Inc.
Phone (859) 537-2123 **Reported By** James Rice
Email JamesRice@NiSource.com

Incident Location 2109 Saint Christopher Dr Lexington KY 40502 **Locate Ticket Number** n/a

County Fayette

Excavator Information

Excavator Jason Earlywine
 Earlywine Fence and Backyard Design Limited Liability Company
Organization ID 1098398
Phone 859-537-9155 **Email**
Address 4240 Victoria Way Lexington KY 40515 **Locate Ticket Number** n/a

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 | Mechanized/Auger | \$1,100.00 | \$1,100.00 |

The Operator reports that the Excavator damaged a one-inch gas service with an auger installing a fence and failed to contact the KY Contact Center (811).

The DR is included as Attachment 1.

INVESTIGATION

On 05/27/22 81, Carly Dunsmore, conducted a search from 06/01/21 thru 07/09/21 and found one invalid LT for the excavator at the incident location which is outlined as follows:

| Locate Ticket (LT) Summary | | | | | | |
|----------------------------|-------|-------------------|---|-------------------|-----------------------|----------------------------|
| Ticket # | Valid | Initial Date | Expiration Date (21 calendar days from initial date) | Incident Date | Obtained After Damage | Within Scope of Excavation |
| 2107071086 | No | 07/07/21 11:32 | N/A | 07/07/21 11:28 | 4mins. | Yes |

A review of LT...1086 revealed the Excavator obtained it on the incident date four minutes after the damage occurred.

The LT is included as Attachment 2.

On 06/09/22 the Excavator, Earlywine Fence and Backyard Design's Jason Earlywine, stated that he called 811 days prior to the damage, but was uncertain if he would be able to obtain a valid LT from his records. Mr. Earlywine stated that he would be receptive to attending the Damage Prevention Course and paying the reduced penalty of \$250.00. Staff informed Mr. Earlywine a Demand Letter was forthcoming he would have 30 days to locate a valid LT or attend the training and pay the reduce penalty.

PIPELINE DAMAGE INVESTIGATION REPORT

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 | 07/07/21 | 07/08/22 |

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

Attachment 1

Gas Excavation Damage Report

Columbia Gas of Kentucky, Inc.

Submitted 8/3/2021 Incident ID: 53823

[Set back to Edit](#)

[Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=53823\)](#)

Reported By:

Name: James Rice
Phone: (859) 537-2123
Email: JamesRice@NiSource.com

Gas Line Incident Occured:

Date: 7/7/2021
Time: 11:28 AM

Details:

Reported Date: 7/27/2021 9:00 AM

Incident Location Address:

Location:
Address: 2109 Saint Christopher Dr
City: Lexington
State: KY
County: Fayette
Zip: 40502
Confirm Code: Y

Number of Customers out: 1

Was gas or hazardous liquids contained in the underground facility?

* 3/2020

Was gas or hazardous liquids released into the atmosphere?

Locate Request Ticket No.: n/a

Excavator: Contractor

Excavator Address:

First Name: Jason
Last Name: Earlywine
Organization ID:
Company: Earlywine Fencing
Phone: 859-537-9155
Email:
Address: 4240 Victoria Way
City: Lexington
State: KY
Zip: 40515
Confirm Code: Y

Excavation Damage: No notification made to the One Call Center

Description of Incident Earlywine Fencing struck a plastic one inch natural gas service line with mechanized equipment.

Summary Information

8/3/2021

Full details such as the cause

Earlywine Fencing was excavating without a locate ticket. While using mechanized equipment (auger) to install a new fence, Earlywine Fencing 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

\$1,100.00

Steps taken to prevent re-occurrence

CKY employees advised Earlywine Fencing to always call 811 prior to any excavating activities.

**Amount billed to
excavator**

\$1,100.00

Attachment 2

Tout, Eric V (PSC)

From: Carly Dunsmore <cdunsmore@usa811.org>
Sent: Friday, May 27, 2022 1:46 PM
To: Tout, Eric V (PSC)
Cc: PSCrequest@kentucky811.org
Subject: Re: 53823
Attachments: 2107071086.pdf

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

Good afternoon,

We searched between 6/1/2021 and 7/9/2021 and found one ticket submitted by Earlywine Fencing for the address 2109 Saint Christopher Drive in Fayette County. If you have any questions, please do not hesitate to contact us.

Thank you,
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 Fri, May 27, 2022 at 11:20 AM Tout, Eric V (PSC) <ericv.tout@ky.gov> wrote:

Please provide locate ticket(s) for:

Incident Date: 7/7/2021 (Provided the date range for the search)

Operator: Columbia

Incident Location: 2109 Saint Christopher Dr., Lexington

County: Fayette

Excavator: Earlywine Fencing

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

NORMAL NOTICE

Ticket : 2107071086 Date: 07/07/2021 Time: 11:32 Oper: KENTUCKY811 Chan:000

State: KY Cnty: FAYETTE City: LEXINGTON
Subdivision:

Address : 2109
Street : SAINT CHRISTOPHER DR
Cross 1 : SAINT ANN DR
Location: LOCATE ENTIRE REAR OF PROPERTY
:
Boundary: n 38.026379 s 38.021212 w -84.461264 e -84.457837

Work type : INSTALL FENCE
Done for : SAM SKAGGS
Start date: 07/09/2021 Time: 11:45 Hours notice: 48/48 Priority: NORM
Ug/Oh/Both: U Blasting: NO Emergency: N
Duration : N/A Depth: 2 FT

Company : EARLYWINE FENCING Type: CONT
Co addr : 200 PLEASANT ST
City : PARIS State: KY Zip: 40361
Caller : JASON EARLYWINE Phone: (859)987-0974
Contact : JASON EARLYWINE - CELL Phone:
Mobile : (859)983-2531

Submitted date: 07/07/2021 Time: 11:32
Members: 0200 0326 0370 2621 WINKY

* Responses are current as of 05/27/2022 01:42 PM

| <u>Service Area</u> | <u>Utility Type(s)</u> | <u>Customer Service Contact</u> | <u>Positive Response</u> |
|--|------------------------|--|--------------------------|
| LEXINGTON URBAN COUNTY GOVERNMENT 0200 | SEWER | | |
| 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 | | Clear - No conflict |
| COLUMBIA GAS 2621 | PIPELINE | COLUMBIA GAS CUSTOMER SERVICE (800) 432-9345 | |
| WINDSTREAM KENTUCKY INC WINKY | TELEPHONE | | |

SUPPLEMENTAL PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Eric Tout **Incident ID** 53823 **Investigation** 8758
Incident Date 7/7/2021 11:28:00 AM **Report Submitted** 8/3/2021

Operator Information

Operator Columbia Gas of Kentucky, Inc.
Phone (859) 537-2123 **Reported By** James Rice
Email JamesRice@NiSource.com

Incident Location 2109 Saint Christopher Dr
Lexington KY 40502 **Locate Ticket Number** n/a

County Fayette

Excavator Information

Excavator Jason Earlywine
Earlywine Fence and Backyard
Design Limited Liability
Company **Organization ID** 1098398
Phone 859-537-9155 **Email**
Address 4240 Victoria Way
Lexington KY 40515 **Locate Ticket Number** n/a

SUPPLEMENTAL INVESTIGATION

A Demand Letter dated 06/14/22 and a 30 Days Past Due & No Attendance Remedial Measure/Training Letter dated 07/19/22 were mailed to the Excavator with the Past Due Letter being delivered certified on 07/20/22.

The Letters are included as Attachment 3.

On 08/01/22, a representative of Earlywine Fence and Backyard Design attended the Damage Prevention Course and an email reminder of the outstanding penalty payment was sent to the Excavator.

A copy of the Utility History and Staff Discussion are include as Attachment 4.

On 08/26/22, the Operator, Columbia's James Rice, provided the following documentation.

- PSC Gas Excavation Damage Report: Which is outlined in the DR Summary and Attachment 1.
- Photographs - 3: Depicting the damage.
- Invoice and Claim Letter: Indicating the Operator billed the Excavator \$1,575.15 for the damage repair.

Columbia's documents are included as Attachment 5.

Attachment 3



Andy Beshear
Governor

Kent A. Chandler
Chairman

Rebecca W. Goodman
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

June 14, 2022

Jason Earlywine
Earlywine Fence and Backyard Design, LLC
4240 Victoria Way
Lexington KY 40515

Re: Violation of Kentucky Underground Facility Damage Prevention Act
Incident Number: **53823**

DEMAND FOR PENALTY ASSESSMENT AND REMEDIAL MEASURES

Dear Mr. Earlywine:

The Kentucky Public Service Commission (Commission) received a report on August 3, 2021, regarding damage to a natural gas or hazardous liquid facility owned and/or operated by the Columbia Gas of Kentucky, Inc. Under the Kentucky Underground Facility Damage Prevention Act (Act), KRS 367.4901 through KRS 367.4917, the Commission has jurisdiction to investigate and assess civil penalties for any violation of the Act that results in excavation damage to underground facilities used to transport gas or hazardous liquid subject to federal pipeline safety laws, 49 U.S.C. secs. 60101 et seq. The Commission regulates the safety of jurisdictional natural gas pipelines in the Commonwealth pursuant to KRS 278.495 and 49 CFR Parts 190, 191, 192 and 195.

Following receipt of the damage notification, Commission Staff (Staff) performed an investigation of the incident and prepared the attached incident report. Based on its investigation of the incident, Staff has determined that Earlywine Fence and Backyard Design committed the following violation(s) 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.

CIVIL PENALTY

Based on its investigation of this matter, Staff has determined that Earlywine Fence and Backyard Design **should be assessed a penalty in the total amount of \$1,250, first offense, but that \$1,000 of the penalty should be suspended contingent upon Earlywine Fence and Backyard Design's completion of Damage Prevention training:**

REMEDIAL MEASURE/TRAINING

A representative of Earlywine Fence and Backyard Design shall participate in a Damage Prevention training course. The Kentucky Public Service Commission will hold these classes online. Class dates have a limited capacity available on a first come-first served basis. To sign up for the class, go to <https://psc.ky.gov/classSignUp>. You will need your incident number: **53823** and

assigned key: **8758** to sign-up for one of the available training dates. **Please understand that this training will be required as a contingency for the reduced penalty amount.**

Within **30 days** of the date of this letter the Earlywine Fence and Backyard Design should mail or deliver a cashier's check or money order made payable to the:

“Kentucky State Treasurer”

The check should be in the amount of \$250.00 mailed to: 211 Sower Boulevard, Frankfort, Kentucky 40602.

Please include the Incident Number 53823 on the cashier's check or money order submitted for payment.

KRS 367.4917 provides that a person who commits a violation of the Act shall be subject to a civil penalty not to exceed \$250 for the first violation, \$1,000 for the second violation within one year, and \$3,000 for the third and any subsequent violation. If the violation results in damage to an underground pipeline used to transport gas or hazardous liquid, the violator is subject to an additional civil penalty not to exceed \$1,000 per violation.

Payment of the proposed civil penalty and completion of the remedial measure will satisfy and resolve any and all claims against Earlywine Fence and Backyard Design for any violation of the Act arising out of the July 7, 2021 incident. Earlywine Fence and Backyard Design's payment of the proposed civil penalty will not be considered an admission by Earlywine Fence and Backyard Design that it willfully violated any provision of the Act.

If Earlywine Fence and Backyard Design does not pay the proposed civil penalty within 30 days of the date of this letter, the Commission will institute an administrative proceeding against Earlywine Fence and Backyard Design and hold a formal hearing during which Earlywine Fence and Backyard Design will have an opportunity to present evidence.

If you have any questions regarding this demand for remedial measures and penalty assessment, please contact Ashley Rhodes, Division of Inspections at 502-782-2578.

Sincerely,

Nancy J. Vinsel

Nancy J. Vinsel
General Counsel

Attachment



Andy Beshear
Governor

Rebecca W. Goodman
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Kent A. Chandler
Chairman

Mary Pat Regan
Commissioner

July 19, 2022

Jason Earlywine
Earlywine Fence and Backyard Design, LLC
4240 Victoria Way
Lexington KY 40515

Re: Violation of Kentucky Underground Facility Damage Prevention Act
Incident Number: 53823

30 Days Past Due & No Attendance Remedial Measure/Training

Dear Mr. Earlywine:

Attached is the demand letter and investigation report for the above Incident. Our records indicate that a reduced penalty of \$250.00 **has not been paid** and **no representative** has attended the Remedial Measure/Training to receive this reduced penalty. Attendance is required for the penalty reduction to apply.

REMEDIAL MEASURE/TRAINING

A representative of Earlywine Fence and Backyard Design shall participate in a Damage Prevention training course. The Kentucky Public Service Commission will hold these classes online. Class dates have a limited capacity available on a first come-first served basis. To sign up for the class, go to **<https://psc.ky.gov/classSignUp>**. You will need your incident number, **53823** and this key **8758** to sign-up for one of the available training dates. **Please understand that this training will be required as a contingency for the reduced penalty amount.**

If we do not hear from you within 10 days from the date of this letter this matter will be referred to the Commission for an Administrative Hearing to be held at the Commission's offices.

Once a referral to the Commission is made, any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky. Thank you for your prompt attention to this matter.

If you have any questions regarding this notice or if you find that these requirements have been met, please contact Ashley Rhodes, Division of Inspections at 502-782-2578.

Sincerely,

Nancy J. Vinsel
General Counsel

TEAM
KENTUCKY



Mailer: Kentucky Public Service Commission

Date Produced: 07/25/2022

ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8383 3678 53. Our records indicate that this item was delivered on 07/20/2022 at 04:51 p.m. in LEXINGTON, KY 40515. The scanned image of the recipient information is provided below.

Signature of Recipient :

Address of Recipient :

**4240 VICTORIA WAY
LEXINGTON, KY 40515**

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:

JASON EARLYWINE
EARLYWINE FENCE AND BACKYARD DESIGN LLC
4240 VICTORIA WAY
LEXINGTON KY 40515-4822

Customer Reference Number: C3559255.21008094

Return Reference Number incident 53823 30PD



Return address:

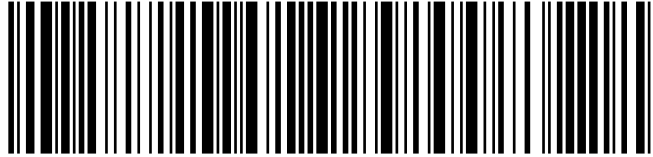
PUBLIC SERVICE COMMISSION
211 SOWER BLVD
FRANKFORT KY 40602

Recipient address:

JASON EARLYWINE
EARLYWINE FENCE AND BACKYARD DESIGN LLC
4240 VICTORIA WAY
LEXINGTON KY 40515-4822

MAILING DATE: 07/19/2022
DELIVERY DATE: 07/20/2022

USPS CERTIFIED MAIL



9214 8901 9403 8383 3678 53



USPS Tracking Label Number: 9214 8901 9403 8383 3678 53

| USPS Tracking History | Location | Date / Time |
|---|---------------------------------------|--------------------|
| PRE-SHIPMENT INFO SENT USPS AWAITS ITEM | FRANKFORT,KY 40602 | 07/19/2022 09:12 |
| USPS IN POSSESSION OF ITEM | FRANKFORT,KY 40601 | 07/19/2022 13:42 |
| DEPART POST OFFICE | FRANKFORT,KY 40601 | 07/19/2022 18:13 |
| PROCESSED THROUGH USPS FACILITY | LEXINGTON KY DISTRIBUTION CENTE 40511 | 07/19/2022 21:40 |
| PROCESSED THROUGH USPS FACILITY | LEXINGTON KY DISTRIBUTION CENTE 40511 | 07/20/2022 00:32 |
| ARRIVAL AT UNIT | LEXINGTON,KY 40517 | 07/20/2022 07:56 |
| OUT FOR DELIVERY | LEXINGTON,KY 40515 | 07/20/2022 08:07 |
| DELIVERED LEFT WITH INDIVIDUAL | LEXINGTON,KY 40515 | 07/20/2022 16:51 |

CUSTOM 1:

Attachment 4

Utility History

| Status | Description | Completed | logged by | |
|-----------------------------|-------------|-----------|-------------------------------------|---|
| Remedial training completed | | 8/1/2022 | ashleyb.rhodes 8/1/2022 12:46:49 PM |  |
| Demand Letter issued | | 6/14/2022 | ericv.tout 6/14/2022 12:05:45 PM |  |

Acknowledgement of response sent ▼

Save

Staff Discussion

Add a NEW Comment

Save

Discussion

Sent email reminder of outstanding penalty payment.

AshleyB.Rhodes 8/1/2022 12:49:38 PM

30PD Delivered 07/20/22

EricV.Tout 7/27/2022 5:24:41 AM

Save

Spoke with Mr. Earlywine, stated he had attempted to sign up for training multiple times but the signup would not take his email address. I signed him up and sent him the link, date and time.

AshleyB.Rhodes 7/25/2022 8:33:53 AM

30PD & no class letter sent to LR.

EricV.Tout 7/13/2022 9:01:06 AM

Save

Attachment 5

Tout, Eric V (PSC)

From: Rice \ James \ D <jamesrice@nisource.com>
Sent: Friday, August 26, 2022 10:36 AM
To: Tout, Eric V (PSC)
Subject: RE: 53823, 7/7/2021, 2109 Saint Christopher Dr., Lexington, Earlywine Fence and Backyard
Attachments: KY21-1107 Claim Invoice.pdf; KY21-1107 Claim Letter.pdf; St Christopher Dr - Pics.pdf; 2109 St Christopher Ln - Lex - No notification made to 811.pdf

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

Hi Eric,

See attached.

-james

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Thursday, August 25, 2022 11:57 AM
To: Rice \ James \ D <jamesrice@nisource.com>
Subject: 53823, 7/7/2021, 2109 Saint Christopher Dr., Lexington, Earlywine Fence and Backyard

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.

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: 07/07/2021

Time: 11:28 AM

JO #: 21-9238692-00

Incident Location

Address: 2109 St Christopher Ln

City: Lexington

County: Fayette

Zip: 40502

Cust. Lost: 1

Was gas released into the atmosphere? Y

Locate Request Ticket Number: N/A

Excavator Information

Excavator Type: Contractor

First Name: Jason

Last Name: Earlywine

Company: Earlywine Fencing

Phone: 859-537-9155

Email: unknown

Address: 4240 Victoria Way

City: Lexington

State: KY

Zip: 40515



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: Earlywine Fencing struck a plastic one inch natural gas service line with mechanized equipment.

Full details such as the cause: Earlywine Fencing was excavating without a locate ticket. While using mechanized equipment (auger) to install a new fence, Earlywine Fencing 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: \$1,100

Steps taken to prevent re-occurrence: CKY employees advised Earlywine Fencing to always call 811 prior to any excavating activities.

Amount billed to excavator: \$1,100



**Columbia Gas of Kentucky, Inc.
Damage Prevention Support**

3101 N Ridge Road E
Lorain, Ohio 44055

07/29/2021

216-339-7856

Earlywine Fencing and Backyard Desidn
4240 Victoria Wy
Lexington, Kentucky 40515

Re: Our Claim: KY21-1107

Gentlemen,

Enclosed is our damage claim invoice in the amount of \$1,575.15, which is the expense our company incurred as the result of your contact with our facilities, located in the vicinity of 2109 Saint Christop Dr, Lexington, Kentucky 40502. Our reports indicate that our facilities were damaged on 07/07/2021.

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

Enclosure

Columbia Gas/NiSource

INVOICE

CLAIM NO.: KY21-1107

JOB ORDER NO.: 21-9238692-00

DATE: July 29, 2021

MRA ACCOUNT NUMBER: 21034065-000-001-9

PAYMENT DUE 28 DAYS FROM ABOVE DATE
PLEASE MAKE REMITTANCE PAYABLE TO:

Earlywine Fencing and Backyard Desidn
4240 Victoria Wy
Lexington, Kentucky 40515

Columbia Gas / NiSource
3101 N. Ridge Rd. E.
Lorain, Ohio 44055
ATTN: Damage Prevention Support

AMOUNT DUE

\$1,575.15

PLEASE CUT HERE AND RETURN TOP WITH PAYMENT

Itemization of the charges for the damages which occurred on 07/07/2021 in the vicinity of 2109 Saint Christop Dr, Lexington, Kentucky 40502.

| ITEMS | AMOUNT |
|----------------------|-------------------|
| Labor | \$788.57 |
| Materials | \$102.91 |
| Equipment | \$674.84 |
| Gas Loss | \$2.66 |
| Contracted Fees | \$0.00 |
| Taxes | \$6.17 |
| TOTAL EXPENSE | \$1,575.15 |

Notes:

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



Know what's below.
Call before you dig.

Columbia Gas/NiSource

INVOICE

CLAIM NO.: KY21-1107

JOB ORDER NO.: 21-9238692-00

DATE: July 29, 2021







APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00375 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 Andrea Wise, Commission Division of Inspections. Andrea.Wise@ky.gov or 502-782-2656.

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. 2022-00375 DATED NOV 22 2022

TEN PAGES TO FOLLOW

ESTADO DE KENTUCKY
ANTE LA COMISIÓN DE SERVICIOS PÚBLICOS

Concerniente:

| | |
|--|------------------------|
| EARLYWINE FENCE AND BACKYARD DESIGN,) LLC) _____) | CASO NO. 2022-00375 |
| 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 anexo/apéndice.)

Earlywine Fence and Backyard Design, LLC (Earlywine Fence) 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 January 27, 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

¹ KRS 367.4901 a KRS 367.4917.

de tuberías, 49 U.S.C. §. 60101 *et seq.* Toda persona que infrinja cualquier disposición 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 Earlywine Fence 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 Earlywine Fence 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. Earlywine Fence 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. Earlywine Fence comparecerá el January 27, 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 January 27, 2023, se llevará a cabo por videoconferencia.

4. Earlywine Fence 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. Earlywine Fence notificará a la Comisión, al menos diez días antes de la audiencia, si Earlywine Fence 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 53823, que se adjunta a esta Orden como Apéndice A, forma parte del expediente de este caso.

9. La audiencia January 27, 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. 2022-00375 FECHADO

TREINTA PÁGINAS A SEGUIR

APÉNDICE B

APÉNDICE DE UNA ORDEN DE LA COMISIÓN DE SERVICIOS PÚBLICOS DE
KENTUCKY EN EL CASO NO. 2022-00375 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 Andrea Wise, División de Inspecciones de la Comisión. Andrea.Wise@ky.gov o 502-782-2656.

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. 2022-00375 FECHADO

DIEZ PÁGINAS PARA SEGUIR

Jason Earlywine
200 Pleasant St.
Paris, KENTUCKY 40361

Jason Earlywine
4220 Victoria Way
Lexington, KENTUCKY 40515