

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PHILLIPS WATERPROOFING AND CONCRETE)	
)	
_____)	CASE NO.
)	2023-00303
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 C.)

Phillips Waterproofing and Concrete 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 The Commission, on its own motion, finds that the hearing in this matter, previously scheduled for October 27, 2023, should be rescheduled to January 26, 2024.

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

¹ KRS 367.4901 through KRS 367.4917.

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 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 Phillips Waterproofing and Concrete 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 Phillips Waterproofing and Concrete 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. Phillips Waterproofing and Concrete 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.

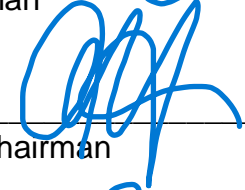
2. The October 27, 2023 hearing date is rescheduled.
3. Phillips Waterproofing and Concrete shall appear on January 26, 2024, at 9 a.m. Eastern Daylight Time, in the Richard Raff Hearing Room of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violation of the Underground Facility Damage Prevention Act.
4. The January 26, 2024 hearing shall be conducted via video conferencing.
5. Phillips Waterproofing and Concrete 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.
6. Phillips Waterproofing and Concrete shall notify the Commission at least ten days prior to the hearing if Phillips Waterproofing and Concrete is unable to appear by video conferencing and will therefore appear in person.
7. **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.**
8. An individual may submit a response to the allegations contained in the Staff Incident Report without the representation of an attorney.
9. The Staff Incident Report 53846, attached to this Order as Appendix A, is made a part of the record in this case.
10. The January 26, 2024 hearing shall be recorded by video only.

11. 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


Commissioner

ENTERED
OCT 26 2023 bsb
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00303 DATE OCT 26 2023

TWENTY-TWO PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Eric Tout **Incident ID** 53846 **Investigation** 8386
Incident Date 7/9/2021 11:32:00 AM **Report Submitted** 8/5/2021

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 7208 Vaughn Mill Rd **Locate Ticket Number** NA
Louisville KY 40228

County Jefferson

Excavator Information

Excavator Kevin Phillips **Organization ID**
Phillips Waterproofing and Concrete
Phone 502-963-2314 **Email**
Address 8880 S Preston Hwy **Locate Ticket Number** NA
Lebanon Junction KY 40150

Damage Report (DR) Summary

Excavation Within 18" (Approximate Location)	Gas Or Hazardous Liquids		Type Of Equipment Used	Cost of Damage	Amount Billed
	Contained	Released			
No call to 811	Yes	Yes	Not Specified	\$685.00	\$0.00

The Operator reports the Excavator damaged a ½ inch gas service and failed to contact the KY Contact Center (811).

The DR is included as Attachment 1.

On 01/31/22 811, Carly Dunsmore, conducted a search from 05/01/21 thru 07/12/21 of their records and found no Loacte Tickets (LT) for the excavator at the incident location.

Ms. Dunsmore's email is included as Attachment 2.

INVESTIGATION

On 02/01/22 the Operator, LG&E's Mile Jones, stated that the Excavator has not made payment for the damage repair. Mr. Jones provided the following documents:

- Facts-Based Investigation & Incident Field Investigation Report: Which have been outlined in Attachment 1 and the DR Summary.
- Invoice: Billing the Excavator \$685.20 for the damage repair.
- Five Photographs: Depicting the incident location.

LG&E's documents are included as Attachment 3.

On 01/02/22 the Excavator, Phillips Waterproofing and Concrete's Kevin Phillips, stated that research was warranted and requested a copy of this incident be emailed to eastfireman@gmail.com.

On 02/03/22 a follow up call to confirmed receipt of the email was made and a voice message was left.

PIPELINE DAMAGE INVESTIGATION REPORT

On 02/08/22 a follow up call was made to Mr. Phillips at 502-963-2314 resulted in a message stating the voice mailbox is full.

VIOLATIONS

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

(Including this incident)

Excavator	Last Offence Incident #	Last Offence Incident Date	Revert to 1st Offence Date (Last Offence Date +366 Days)
2 nd	43400	01/19/21	01/20/22

Attachment 1

Gas Excavation Damage Report

Louisville Gas and Electric Company

Submitted 8/5/2021 Incident ID: 53846

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=53846\)](#)

Reported By:

Name: Mike Jones
Phone: (502) 364-8281
Email: Mike.Jones@lge-KU.com

Gas Line Incident Occured:

Date: 7/9/2021
Time: 11:32 AM

Details:

Reported Date: 8/5/2021 8:53 AM

Incident Location Address:

Location:

Address: 7208 Vaughn Mill Rd
City: Louisville
State: KY
County: Jefferson
Zip: 40228
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: Kevin
Last Name: Phillips
Organization ID:
Company: Phillips Waterproofing and Concrete
Phone: 502-963-2314
Email:

Address: 8880 S Preston Hwy
City: Lebanon Junction
State: KY
Zip: 40150
Confirm Code: Y
Excavation Damage: No notification made to the One
Call Center

Description of Incident Excavator damaged service digging without locate request.

Summary Information

8/5/2021

Full details such as the cause	Contractor damaged unmarked .5 inch customer service just below the meter. They were digging on the front corner of the house for waterproofing the basement wall.
Extent of the damage	Broken 1/2" plastic gas service
Cost of the damage	\$685.00
Steps taken to prevent re-occurrence	Letter to excavator and comments to onsite workers about 811.
Amount billed to excavator	\$0.00

Attachment 2

Tout, Eric V (PSC)

From: Ticket Research <ticketresearch2@usa811.org>
Sent: Monday, January 31, 2022 9:21 AM
To: Tout, Eric V (PSC)
Cc: PSCrequest@kentucky811.org
Subject: Re: 53846

Good morning,

We searched between 5/1/2021 - 7/12/2021, but were unable to find any tickets submitted by Phillips Waterproofing and Concrete, on Vaughn Mill Rd., in Jefferson Co. If you have any more information, we would be happy to further assist you.

Thank you,
April Butler, *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 Mon, Jan 31, 2022 at 7:34 AM Tout, Eric V (PSC) <ericv.tout@ky.gov> wrote:

Please provide locate ticket for:

Incident Date: 7/9/2021

Operator: Louisville Gas

Incident Location: 7208 Vaughn Mill Rd., Louisville

County: Jefferson

Excavator: Phillips Waterproofing and Concrete

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

Attachment 3

Tout, Eric V (PSC)

From: Jones, Mike (Auburndale) <Mike.Jones@lge-ku.com>
Sent: Tuesday, February 1, 2022 12:30 PM
To: Tout, Eric V (PSC)
Subject: RE: 53846, 7/9/2021, 7208 Vaughn Mill Rd., Louisville, Phillips Waterproofing and Concrete
Attachments: DigTix_Incident_Report.pdf; Yellow Report 7208 Vaughn Mill.pdf; digitix_attachments_1643736489.zip; Workers Compensation - Claim # GC20211229833 - DOS 7152021 - Status COMPLETE.PDF

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

Invoice included, no payment yet, sent to collections

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Tuesday, February 01, 2022 7:13 AM
To: Jones, Mike (Auburndale) <Mike.Jones@lge-ku.com>
Subject: 53846, 7/9/2021, 7208 Vaughn Mill Rd., Louisville, Phillips Waterproofing and Concrete

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-20210709-002 Customer Claim ID: _____
Site Investigator: Tracy Reesor Notified At: 07/09/21 12:26:00
Notified By: Gas Operations Dispatch 5025891444
Damage Location: 7208 Vaughn Mill Rd Louisville KY 40228
Incident Time: 07/09/21 11:45:00

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 0.5
Depth: 18" to < 36" (0.5 to < 1m)
Description and Extent of Damage: No BUD. Contractor damaged unmarked.5 inch customer service just below the meter. They were digging on the front corner of the house for waterproofing the basement wall.

Equipment Used: Hand Tools
Excavation Company Name: PHILLIPS WATERPROOFING
Company Address: 8880 S Preston Hwy, Lebanon Junction, KY 40150
Phone: 5029632314 Contact Name: KEVIN PHILLIPS
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/A If No, Distance Markings Off: N/A
Marks Visible at Time of Damage: N Damage Within Scope of Ticket: N



Facts-Based Investigation

Repair Contact Name: Kenny Harrison Phone: _____

Repair Comments: Garth Ledford

Witness: _____ Phone: _____

Comments: _____

Witness: _____ Phone: _____

Comments: _____

Root Cause Explanation: _____

Responsible Party: Phillips Waterproofing and concrete

Responsible Party Comments: Phillips Waterproofing and Concrete.
8880 S Preston Hwy
Lebanon Junction, KY 40150
Kevin Phillips. 5029632314

Date of Investigation: 07/09/21 Investigation Time (Hours): _____

Site Investigator's Name: Tracy Reesor Phone: 5022694079

Site Investigator's Signature: Tracy Reesor Date: 07/12/2021

Damage Status: One Call Notification Issue

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

Damage Claims Manager: _____



Incident Field Investigation Report — Gas

at 685.20



Damage report # 7021071404

Is this related to a capital project? Yes No

G# 001028297

Project/task OTPO419/maint.

Resp. ctr. AOC

Damage to company facilities

Date of incident 7-9-2021 Time 12:30 a.m. p.m. Police report # _____

Address/location of damage 7208 Vaughn Mill Rd ZIP code 40228

Subdivision name _____

Time dispatched 11:32 a.m. p.m. Time of completion 3:30 a.m. p.m.

Who caused damage? Phillips Waterproofing and Concrete
(Name of contractor, utility, individual, etc.)

Address of party causing damage 8880 S Preston Hwy Lebanon Junction KY 40150
(Street) (City) (State) (ZIP)

Phone number of party causing damage (502) 963-2314
(Area code) (Number)

Was party causing damage still on the job? Yes No If yes, who was in charge? gave owners name only - Kevin Phillips

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? basement waterproofing

Party's explanation for damage said they didnt know about 811

What repairs were made? Repaired customer 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 ELM

7-9-21 (Date of report)

Ch5 (Signature of employee)

E028316 (Employee number)

Approved B. [Signature] Date 7-12-21

Put any additional comments on back

Comments Continued Break Service @ Riser. Shut off @ stop. Hand dug up & made repairs. Reset new stop box.

Crew Personnel	Employee #	ST Hours	OT Hours	DT Hours	Unit #	Equipment
Kenny Harrison	26743	3.5			8370	<input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota
Garth Lufford	28316	3			4876	<input checked="" type="checkbox"/> Backhoe <input type="checkbox"/> Kubota
Tyson Powers	29082	3			11	<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
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						<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
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
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)	
1	1/2 CTS permasert	



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

INVOICE DATE: 07/15/2021

REFERENCE: OTPD419
 NO.:
 DTS INVOICE: 2021071404
 NO.:

AMOUNT DUE: **\$685.20**
 DUE DATE: **08/14/2021**

PHILLIPS WATERPROOFING
 8880 SOUTH PRESTON HIGHWAY
 LEBANON JUNCTION KY 40150

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

COST TO REPAIR: Damaged Customer Gas Service
 DAMAGE DATE: 07/09/2021
 DAMAGE LOCATION: 7208 Vaughn Mill Rd
 Louisville, KY 40228

LABOR HOURS: 9.50

LABOR COST: \$602.55

MATERIAL COST: \$18.75

TRANSPORTATION/EQUIPMENT COST: \$63.90

CONTRACTOR COST: \$0.00

OTHER DAMAGE COSTS: \$0.00

TOTAL DUE: \$685.20



2021-07-09 13:05:05



2021-07-09 13:07:45





2021-07-09 13:08:39



APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00303 OCT 26 2023

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

ESTADO DE KENTUCKY
ANTE LA COMISIÓN DE SERVICIOS PÚBLICOS

Concerniente:

PHILLIPS WATERPROOFING AND CONCRETE)	
)	
_____)	CASO NO.
)	2023-00303
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

Phillips Waterproofing and Concrete 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).² Una audiencia sobre este caso tendrá lugar el January 26, 2024. La Comisión, de oficio, considera que la audiencia sobre este asunto, previamente programada para 27 de Octubre de 2023, debe reprogramarse 26 de Enero de 2024.

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

² KRS 367.4901 a KRS 367.4917.

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 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 Phillips Waterproofing and Concrete 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 Phillips Waterproofing and Concrete 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. Phillips Waterproofing and Concrete 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. La fecha de la audiencia del 27 de Octubre de 2023 se reprograma.

3. Phillips Waterproofing and Concrete comparecerá el January 26, 2024, 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.

4. La audiencia 26 de Enero de 2024 se llevará a cabo por videoconferencia.

5. Phillips Waterproofing and Concrete 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.

6. Phillips Waterproofing and Concrete notificará a la Comisión, al menos diez días antes de la audiencia, si Phillips Waterproofing and Concrete no puede comparecer por videoconferencia y, por lo tanto, comparecerá en persona.

7. **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 comparencias en las audiencias ante la Comisión.

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

9. El Informe de Incidentes del Personal 53846, que se adjunta a esta Orden como Apéndice A, forma parte del expediente de este caso.

10. La audiencia 26 de Enero de 2024 se grabará únicamente por vídeo.

11. **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. 2023-00303

VEINTIUNO PÁGINAS A SEGUIR

APÉNDICE B

APÉNDICE DE UNA ORDEN DE LA COMISIÓN DE SERVICIOS PÚBLICOS DE KENTUCKY EN EL CASO NO. 2023-00303 FECHADO

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 estés conectado por VoIP si utilizas unos auriculares.

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