

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ADRIAN GOMEZ DIAZ)	
)	
_____)	CASE NO.
)	2023-00165
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.)

Adrian Gomez Diaz (Adrian Gomez Diaz) 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 July 28, 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 conducted an investigation and prepared an Incident Report, a copy of which is attached to this Order as Appendix A. In its Incident Report, Commission Staff cites Adrian Gomez Diaz for violation of the following provision of the Act:

KRS 367.4911(10) – When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds prima facie evidence that Adrian Gomez Diaz 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. Adrian Gomez Diaz 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 Commission Staff Incident Report within 20 days of receipt of this Order.

2. Adrian Gomez Diaz shall appear on July 28, 2023, at 9 a.m. Eastern Daylight Time, in the Richard Raff Hearing Room of the Commission's offices at

211 Sower Boulevard in Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violation of the Underground Facility Damage Prevention Act.

3. The July 28, 2023 hearing shall be conducted via video conferencing.

4. Adrian Gomez Diaz 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. Adrian Gomez Diaz shall notify the Commission at least ten days prior to the hearing if Adrian Gomez Diaz 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 Commission Staff Incident Report without the representation of an attorney.

8. The Commission Staff Incident Report 53962, attached to this Order as Appendix A, is made a part of the record in this case.

9. The July 28, 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.**

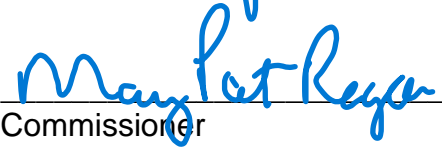
PUBLIC SERVICE COMMISSION



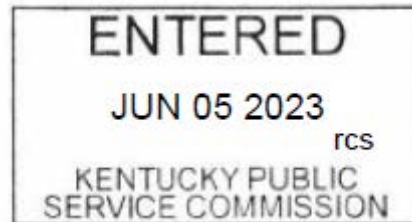
Chairman



Vice Chairman



Commissioner



ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00165 DATED JUN 06 2023

TWENTY-EIGHT PAGES TO FOLLOW

SUPPLEMENTAL PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Eric Tout **Incident ID** 53962 **Investigation** 9104
Incident Date 8/5/2021 6:10:00 PM **Report Submitted** 8/31/2021

Operator Information

Operator Duke Energy Kentucky, Inc. **Reported By** Ronya Nabors
Phone (704) 576-8155 **Email** ronya.nabors@duke-energy.com

Incident Location 511 Kentaboo Ave **Locate Ticket Number** 2107291300
Florence KY 41042
511 Kentaboo Ave - 469254
County Boone

Excavator Information

Excavator Adrian Gomez Diaz **Organization ID**
Phone 513-519-5224 **Email** AGMASONRY1@GMAIL.COM
Address 511 Kentaboo Ave **Locate Ticket Number** 2107291300
Florence KY 41042

SUPPLEMENTAL INVESTIGATION

A Demand Letter dated 10/25/22 and two 30 Days Past Due & No Attendance Remedial Measure/Training Letters dated 11/29/22 and 10/27/22 were mailed (two different addresses) to the Excavator and on 12/15/22 the Demand Letter was returned unable to forward, vacant.

The Letters are included as Attachment 4.

On 01/11/23, the Operator, Duke's Tyler Shelton, stated that Mr. Diaz paid Duke for the damage repair and Mr. Shelton provided the follow documents:

- Invoice: Indicating the Operator billed the Excavator \$953.83 for the damage repair.
- Damage Investigation Findings: Indicating the Excavator damaged the properly marked one-inch gas service.

Duke documents are included as Attachment 5.



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

October 25, 2022

Adrian Gomez Diaz
511 Kentaboo Ave.
Florence KY 41042

Re: Violation of Kentucky Underground Facility Damage Prevention Act
Incident Number: **53962**

DEMAND FOR PENALTY ASSESSMENT AND REMEDIAL MEASURES

Dear Mr. Diaz:

The Kentucky Public Service Commission (Commission) received a report on August 31, 2021, regarding damage to a natural gas or hazardous liquid facility owned and/or operated by the Duke Energy 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 Adrian Gomez Diaz committed the following violation(s) of the Act:

- KRS 367.4911(10) When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

CIVIL PENALTY

Based on its investigation of this matter, Staff has determined that Mr. Diaz **should be assessed a penalty in the total amount of \$1,250.00, first offense, but that \$1,150.00 of the penalty should be suspended contingent upon Mr. Diaz's completion of Damage Prevention training:**

REMEDIAL MEASURE/TRAINING

- A representative of Mr. Diaz 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: **53962** and assigned key: **9104** 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 Mr. Diaz 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 **\$100.00** mailed to: **211 Sower Boulevard, Frankfort, Kentucky 40602**

Please include the Incident Number 53962 on the cashier's check or money order submitted for payment. Checks made payable to any other payee besides the Kentucky State Treasurer or without the Incident Number cannot be processed and will be returned, thus delaying the resolution of this matter.

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 Mr. Diaz for any violation of the Act arising out of the August 5, 2021 incident. Mr. Diaz's payment of the proposed civil penalty will not be considered an admission by Mr. Diaz that he/she willfully violated any provision of the Act.

If Mr. Diaz does not pay the proposed civil penalty within 30 days of the date of this letter, the Commission will institute an administrative proceeding against Mr. Diaz and hold a formal hearing during which Mr. Diaz 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
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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

November 29, 2022

Adrian Gomez Diaz
511 Kentaboo Ave.
Florence KY 41042

Re: Violation of Kentucky Underground Facility Damage Prevention Act
Incident Number: 53962

30 Days Past Due & No Attendance Remedial Measure/Training

Dear Mr. Diaz:

Attached is the demand letter and investigation report for the above Incident. Our records indicate that a reduced penalty of \$100.00 **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 Mr. Diaz 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, **53962** and this key **9104** 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.



Andy Beshear
Governor

Kent A. Chandler
Chairman

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Secretary
Energy and Environment Cabinet

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Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Mary Pat Regan
Commissioner

December 27, 2022

Adrian Gomez Diaz
PO Box 309
Miamitown OH 45041

Re: Violation of Kentucky Underground Facility Damage Prevention Act
Incident Number: 53962

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Dear Mr. Diaz:

Attached is the demand letter and investigation report for the above Incident. Our records indicate that a reduced penalty of \$100.00 **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.

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Sincerely,

Nancy J. Vinsel
General Counsel

TEAM
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Kent A. Chandler
Chairman

Mary Pat Regan
Commissioner

October 25, 2022

Adrian Gomez Diaz
511 Kentaboo Ave.
Florence KY 41042

Re: Violation of Kentucky Underground Facility Damage Prevention Act
Incident Number: **53962**

DEMAND FOR PENALTY ASSESSMENT AND REMEDIAL MEASURES

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cky Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601



9214 8901 9403 8397 0122 13



ZIP 40601
041L11246969

Adrian Gomez Diaz
511 Kentaboo Ave.
Florence KY 41042

VAL

-R-T-S- 410422003-1N 12/15/22

RETURN TO SENDER
VACANT
UNABLE TO FORWARD
RETURN TO SENDER



Tout, Eric V (PSC)

From: Shelton, Tyler <Tyler.Shelton@duke-energy.com>
Sent: Wednesday, January 11, 2023 3:08 PM
To: Tout, Eric V (PSC)
Subject: RE: [EXTERNAL] 53962, 8/5/2021, 511 Kentaboo Ave., Florence, Adrian Gomez Diaz
Attachments: 469254 - Claim Support Package.pdf

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

This Message Originated from Outside the Organization

This Message Is From an External Sender.

Report Suspicious

Hello Eric,

This claim was paid in full by Adrian Gomez. CSP attached.

Thank you!

Tyler

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Tuesday, January 10, 2023 8:54 AM
To: Shelton, Tyler <Tyler.Shelton@duke-energy.com>
Subject: [EXTERNAL] 53962, 8/5/2021, 511 Kentaboo Ave., Florence, Adrian Gomez Diaz

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

Hello Tyler,

Please send repots, photos pre & post, 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



INVOICE



Please Make Check Payable to: Project Resources Group

Remit to: Project Resources Group, Inc. Attn. Damage Claims 5690 DTC Blvd, Suite 650 E Greenwood Village, CO 80111 Terms: Due Upon Receipt EIN: 84-1576547	Invoice # DK-469254 Date: September 24, 2021 Terms: Due Upon Receipt Conf. Code # WE3P7 Bank: BOK Financial ABA: 5892990000028 Routing: 102000607 Remit Email: accounting@prgconsulting.net
--	--

Responsible for Damages: Adrian Gomez Diaz 511 Kentaboo Ave Florence, KY 41042
--

Date & Address Where Damage Occurred: 8/5/2021 511 Kentaboo Ave Florence, KY 41042

Labor and Materials Costs:			
	Units	Unit Rate	Amount
<i>Internal Labor Costs</i>			
Mechanic Iii - C&M (12049)	3.00	35.79	\$107.37
Mechanic Operator Ii	3.00	67.91	\$203.73
Supervisor	1.20	94.33	\$113.20
Emergency Call Out	1.00	250.00	\$250.00
Utilitytruck / Tandem Axle	1.00	54.30	\$54.30
Damage Investigation/Quality Control			\$191.00
Sub-Total			\$919.60
<i>Material Costs</i>			
Coupling;Pipe; 1" Cts; Stab; 125 Lb; Pe; Asti	1.00	8.54	\$8.54
Sub-Total			\$8.54
<i>Loss of Gas</i>			
Sub-Total			\$25.69
Invoice Total			\$953.83

Please Make Check Payable to: Project Resources Group

For questions regarding this invoice, please contact: Katie Giese, (720) 580-1958 or via email kgiese@prgconsulting.net

This communication is from an entity considered a debt collector by the State of North Carolina Division of Insurance attempting to collect a debt. Any information will be used for that purpose.

Damage Investigation Findings

PRG CLAIM:	DK-469254	
DATE OF OUTAGE:	08/05/2021	06:10 PM
NOTIFICATION:	08/05/2021	06:16 PM
ARRIVAL:	08/05/2021	06:57 PM
LOCATION:	511 Kentaboo Ave, Florence, KY 41042	
LOCATE TICKET:	2107291300	
INVESTIGATOR:	Christopher Hogle	

SUMMARY

On Thursday, August 5, 2021, I was notified by Duke Energy about damage at 511 Kentaboo Ave, Florence, KY 41042. Duke Energy's Underground Facilities were damaged at the above stated location by a Backhoe.



STATEMENTS

Adrian Gomez Diaz / Homeowner / Damaging Party - "I am working on new foundation and I hit the gas line. Duke Energy was here and repaired it. I do not have a locate ticket number to provide."

USIC / Damage Investigation Report# 22320210805052 - "Cause Factor: Failed to expose marked facilities"

DETERMINATION

It has been determined that on August 5th, 2021, Adrian Gomez Diaz was performing a foundation repair at the above stated location. During the excavation process Adrian Gomez Diaz came into contact with and thus damaged an underground natural gas facility owned by Duke Energy Company. Adrian Gomez Diaz requested and obtained locate ticket# 2107291300, on 08/02/2021 USIC responded to locate and marked the excavation area. Accurately placed locate marks were visible during the damage encounter. Adrian Gomez Diaz has failed to utilize precaution while excavating within a tolerance zone.

Law(s): **KRS 367.4911**

Excavator or person responsible for excavation to notify operator of work schedule -- Responsibilities of excavator. (10) When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.



ROOT CAUSE

Adrian Gomez Diaz failed to properly expose and protect underground facilities

0516 00063 KUPIa 07/29/2021 13:25:24 2107291300-00A NORM NEW STRT

NORMAL NOTICE

Ticket : 2107291300 Date: 07/29/2021 Time: 13:24 Oper: KENTUCKY811 Chan:000

State: KY Cnty: BOONE City: FLORENCE
Subdivision:

Address : 511

Street : KENTABOO AVE

Cross 1 : DREXEL AVE

Location: ENTIRE PROPERTY

:

Boundary: n 39.013568 s 39.012091 w -84.622283 e -84.619387

Work type : DIGGING TO INSTALL BLOCK FOOTER

Done for : ADRIAN GOMEZ

Start date: 08/02/2021 Time: 13:30 Hours notice: 96/48 Priority: NORM

Ug/Oh/Both: U Blasting: NO

Emergency: N

Duration : N/A

Depth: 8 FT

Company : ADRIAN GOMEZ Type: HOME

Co addr : 511 KENTABOO AVENUE

City : FLORENCE State: KY Zip: 41042

Caller : ADRIAN GOMEZ Phone: (513)519-5224

Contact : ADRIAN GOMEZ - CELL Phone:

Mobile : (513)519-5224

Email : AGMASONRY1@GMAIL.COM

Submitted date: 07/29/2021 Time: 13:24

Members: 0122 0130 0416 0516

Email_From: Kentucky 811 <tickets@kentucky811.org>

Email_Subject: KUPI 0516 2021/07/29 #00063 2107291300-00A NORM NEW

Email_Recv_Date: 2021-07-29 12:25:24 CDT

Email_Sent_Date: 2021-07-29 12:25:24 CDT

Email_MessageID: <0100017af34ca5a0-31a929cd-b0b1-4020-98b6-dc125b130193-000000@email.amazonses.com>

Email_host: tickets6.811tickets.com

Email_user: 811.ky.oc-duk

Email_To: 811.ky.oc-duk@tickets.811tickets.com

Email_ContentType: text/plain; charset=utf-8

Email_Timestamp: 2021-07-29 12:26:07 CDT



469254 - Investigator1.jpeg



469254 - Investigator2.jpeg



469254 - Investigator3.jpeg



469254 - Investigator4.jpeg



469254 - Investigator5.jpeg



469254 - Investigator6.jpeg



469254 - Investigator7.jpeg



469254 - Investigator8.jpeg



469254 - Investigator9.jpeg



469254 - Investigator10.jpeg



469254 - Investigator11.jpeg



469254 - Investigator12.jpeg



Property of United States Infrastructure Corporation
Photo created on 08/05/2021 18:33:01 PM EDT

469254 - Locate Damage1.JPG



Property of United States Infrastructure Corporation
Photo created on 08/05/2021 18:33:04 PM EDT

469254 - Locate Damage2.JPG



Property of United States Infrastructure Corporation
Photo created on 08/02/2021 08:33:10 AM EDT

469254 - Locate Pre-Dig1.JPG

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00165 DATED JUN 05 2023

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. 2023-00165 DATED JUN 05 2023

NINE PAGES TO FOLLOW

ESTADO DE KENTUCKY
ANTE LA COMISIÓN DE SERVICIOS PÚBLICOS

Concerniente:

ADRIAN GOMEZ DIAZ)	
)	
_____)	CASO NO.
)	2023-00165
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

Adrian Gomez Diaz (Adrian Gomez Diaz) 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 July 28, 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 de la Ley está sujeta a la imposición de una sanción civil por un importe de 250 dólares

¹ KRS 367.4901 a KRS 367.4917.

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 Adrian Gomez Diaz por la infracción de la siguiente disposición de la Ley:

KRS 367.4911(10) - Cuando sea necesario excavar o demoler dentro de la ubicación aproximada de la instalación subterránea, el excavador deberá cavar a mano o utilizar medios no intrusivos para evitar daños a la instalación subterránea.

Basándose en su revisión del Informe de Incidentes y estando suficientemente informada, la Comisión encuentra pruebas prima facie de que Adrian Gomez Diaz 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. Adrian Gomez Diaz 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. Adrian Gomez Diaz comparecerá el July 28, 2023, a las 9 a.m. Eastern Daylight 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 July 28, 2023 se llevará a cabo por videoconferencia.

4. Adrian Gomez Diaz 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. Adrian Gomez Diaz notificará a la Comisión, al menos diez días antes de la audiencia, si Adrian Gomez Diaz 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 53962, que se adjunta a esta Orden como Apéndice A, forma parte del expediente de este caso.

9. La audiencia July 28, 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. 2023-00165 FECHADO

VIENTEOCHO PÁGINA(S) A SEGUIR

APÉNDICE B

APÉNDICE DE UNA ORDEN DE LA COMISIÓN DE SERVICIOS PÚBLICOS DE
KENTUCKY EN EL CASO No. 2023-00165 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 estés conectado por VoIP si utilizas unos auriculares.

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