

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CDN BUILDERS, LLC)	
)	
_____)	CASE NO.
)	2022-00381
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.)

CDN Builders, LLC (CDN Builders) 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 CDN Builders for violation of the following provisions 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.

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 CDN Builders 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. CDN Builders 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. CDN Builders 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. CDN Builders 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. CDN Builders shall notify the Commission at least ten days prior to the hearing if CDN Builders 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 53870, 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. 2022-00381 DATED NOV 23 2022

SEVENTY-FOUR PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Eric Tout **Incident ID** 53870 **Investigation** 8812
Incident Date 7/15/2021 3:39:00 PM **Report Submitted** 8/9/2021

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 124 Deep Springs Dr **Locate Ticket Number** NA
 Bardstown KY 40004

County Nelson

Excavator Information

Excavator David Nalley **Organization ID** 0987744
 CDN Builders, LLC
Phone 502-350-7984 **Email**
Address 125 Sapphire Ct **Locate Ticket Number** NA
 Bardstown KY 40004

Damage Report (DR) Summary

Excavation Within 18" (Tolerance Zone)	Gas Or Hazardous Liquids		Type Of Equipment Used	Cost of Damage	Amount Billed
	Contained	Released			
Yes / No call to the KY Contact Center (811)	Yes	Yes	Not Specified	\$945.00	\$0.00

The Operator reports that the Excavator damaged a properly marked 1/2 inch gas service while installing concrete footers/culvert and failed to contact 811. More specifically the markings on the ground were placed 07/07/21 for the City of Bardstown.
The DR is included as Attachment 1.

INVESTIGATION

On 06/13/22 811, April Butler and/or Carly Dunsmore, conducted a search from 06/01/21 thru 07/31/21 and found no Loacte Tickets (LT) for the excavator and incident location.

On 06/16/21 an attempt to contact the Excavator at 502-350-7984 resulted in a message stating the wireless customer is not accepting calls at this time. An attempt to contact the Excavator at 502-350-7964 (web #) resulted in message stating this number is not reachable.

A reverse phone look up for 502-350-7984 revealed the number is assigned to Charles Nalley with an address of 125 Sapphire Ct., Bardstown. Accurint provided a business address of 211 S. Howard Ave, Bardstown, KY 40004 and phone number 502-331-5086.

On 06/22/22 the Operator, LG&E's Mike Jones, stated the Excavator was no billed for this incident due to depth issues. Mr. Jones provided the following documents:

- Facts-Based Investigation and Incident Field Investigation Report: Which are outlined in the DR Summary and Attachment 1.
- Photographs 56: Indicating the damage occurred within the approximate location/tolerance zone of 18 inches.

PIPELINE DAMAGE INVESTIGATION REPORT

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

On 06/22/22 Danny Nalley of CDN Builders stated no call was made to 811, CDN Builders was excavating on another excavator's LT and the depth to the gas service was only two-inches. Mr. Nalley was receptive to attending the Damage Prevention Course, paying the reduced penalty of \$250.00 and the letter should be mailed to 128 Sapphire Ct.

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.

(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.

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	07/15/21	07/16/22

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

Louisville Gas and Electric Company

Submitted 8/9/2021 Incident ID: 53870

[Set back to Edit](#)

[Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=53870\)](#)

Reported By:

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

Gas Line Incident Occured:

Date: 7/15/2021
Time: 3:39 PM

Details:

Reported Date: 8/9/2021 11:39 AM

Incident Location Address:

Location:
Address: 124 Deep Springs Dr
City: Bardstown
State: KY
County: Nelson
Zip: 40004
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.: NA

Excavator: Contractor

Excavator Address:

First Name: David
Last Name: Nalley
Organization ID:
Company: CDN Builders LLC
Phone: 502-350-7984
Email:
Address: 125 Sapphire Ct
City: Bardstown
State: KY
Zip: 40004
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

8/9/2021

****NO BUD**-the painted yellow marks that can be seen in the damage investigation photos were from a locate ticket called in by the City of Bardstown on 7/7/21 (gas service was marked accurately) CDN Construction LLC was hired to install a driveway at 125 Deep Springs Dr, as well as install a culvert and other excavation projects. There is a new home being built on the aforementioned property. While digging to install concrete footers and a culvert, CDN Construction damaged a 1/2" plastic medium pressure gas service feeding the home at 124 Deep Springs Dr. The gas line was a long service that ran across Deep Springs. The line was damaged on the company side just north of the roadbed. Contractor damaged a 1/2" plastic gas service. Service was marked accurately for a different contractor.

Full details such as the cause

Extent of the damage

Damaged 1/2" plastic gas service

Cost of the damage

\$945.00

Steps taken to prevent re-occurrence

Conversation with Mr. Nalley about need for requesting locates. The marks on site were placed for another contractor.

Amount billed to excavator

\$0.00

Attachment 2

Tout, Eric V (PSC)

From: Ticket Research <ticketresearch2@usa811.org>
Sent: Monday, June 13, 2022 10:29 AM
To: Tout, Eric V (PSC)
Cc: PSCrequest@kentucky811.org
Subject: Re: 53870

Hello,

We searched for tickets from June 1st through July 31st, 2021 but were unable to find any tickets submitted on 124 Deep Springs Dr, Nelson County for the excavator CDN Builders. If you have any more information, we would be happy to assist you further.

Thank you,
April Butler & Carly Dunsmore, *Member Services*

Office [833-538-0923](tel:833-538-0923) | Fax [317-386-7820](tel:317-386-7820)

Know what's below. 811 before you dig.

[Indiana811](#) | [Facebook](#) | [Twitter](#) | [YouTube](#)

[Kentucky811](#) | [Facebook](#) | [Twitter](#) | [YouTube](#)

On Mon, Jun 13, 2022 at 9:19 AM Tout, Eric V (PSC) <ericv.tout@ky.gov> wrote:

Please provide locate ticket(s) for:

Incident Date: 7/15/2021 (Provided the date range for the search)

Operator: Louisville Gas and Electric

Incident Location: 124 Deep Springs Dr, Bardstown

County: Nelson

Excavator: CDN Builders

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: Wednesday, June 22, 2022 8:00 AM
To: Tout, Eric V (PSC)
Subject: RE: 53870, 7/15/2021, 124 Deep Springs Dr. Bardstown, CDN Builders
Attachments: digitix_attachments_1655820288.zip; DigTix_Incident_Report.pdf; Yellow Report 124 Deep Springs.pdf

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

We did not bill this one due to a depth issue.

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Monday, June 20, 2022 7:30 AM
To: Jones, Mike (Auburndale) <Mike.Jones@lge-ku.com>
Subject: 53870, 7/15/2021, 124 Deep Springs Dr. Bardstown, CDN Builders

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-20210715-004 Customer Claim ID: _____
Site Investigator: Steve Delap Notified At: 07/15/21 15:39:00
Notified By: Gas Operations Dispatch 5025891444
Damage Location: 124 Deep Springs Dr Bardstown KY 40004
Incident Time: 07/15/21 15:30:00

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

Type and Size of Damaged Utility: Natural Gas Service/Drop 0.5
Depth: < 18" (0.5m) Embedded in Pavement
Description and Extent of Damage: **NO BUD-the painted yellow marks that can be seen in the damage investigation photos were from a locate ticket called in by the City of Bardstown on 7/7/21(gas service was marked accurately) CDN Construction LLC was hired to install a driveway at 125 Deep Springs Dr, as well as install a culvert and other excavation projects. There is a new home being built on the aforementioned property. While digging to install concrete footers and a culvert CDN Construction damaged a 1/2" plastic medium pressure gas service feeding the home at 124 Deep Springs Dr. The gas line was a long service that ran across Deep Springs, line was damaged on the company side just north of the roadbed. Contractor damaged a 1/2" plastic gas service. Service was marked accurately for a different contractor.

Equipment Used: Backhoe/Trackhoe
Excavation Company Name: CDN BUILDERS, LLC
Company Address: 128 SAPPHIRE COURT, Bardstown, KY 40004
Phone: 5023507984 Contact Name: Danny Nalley
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: _____ Damage Within Scope of Ticket: N



Facts-Based Investigation

Repair Contact Name: _____ **Phone:** 5025891444 _____

Repair Comments: LG&E had to cut back asphalt in Deep Springs Dr to repair the damaged gas service. LG&E informed the homeowner that they have small gas leaks inside their home and the homeowner would need to call a plumber themselves.

Witness: _____ **Phone:** _____

Comments: _____

Witness: _____ **Phone:** _____

Comments: _____

Root Cause Explanation: _____

Responsible Party: _____ CDN Builders, LLC _____

Responsible Party Comments: David Nalley, I spoke with Ashley Nally via phone while I was on-site. David Nalley left the job site before I arrived. Mr. Nalley did give the LG&E gas tech on-site his contact information before leaving.

Date of Investigation: _____ 07/15/21 _____ **Investigation Time (Hours):** _____

Site Investigator's Name: _____ Steve Delap _____ **Phone:** _____ 5029911135 _____

Site Investigator's Signature: _____ Steve Delap _____ **Date:** _____ 07/16/2021 _____

Damage Status: _____ One Call Notification Issue _____

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

Damage Claims Manager: _____





NOTE: Only 12 most recent photos shown. To view all 56 attachments, please view the ticket within DigTix.

Incident Field Investigation Report — Gas



Damage report # _____

Is this related to a capital project? Yes No

Project/task CTPD419 / Capital

G# 001028874

Resp. ctr. _____

Damage to company facilities

Date of incident 7/15/21 Time 4:00 pm a.m. p.m. Police report # _____
Address/location of damage 124 Deep Springs Drive ZIP code 40004
Subdivision name WOODLAWN SPRINGS
Time dispatched 3:39 a.m. p.m. Time of completion _____ a.m. p.m.
Who caused damage? GDN Builders LLC (Name of contractor, utility, individual, etc.)
Address of party causing damage 128 Sapphire Court Bardstown KY 40004
Phone number of party causing damage (502) 350-7984 (Area code) (Number) (City) (State) (ZIP)
Was party causing damage still on the job? Yes No If yes, who was in charge? _____
If no, how did you obtain name of party causing damage? LG&E gas tech got info before they left site
What was damaged? Company main Customer service Company service Other _____
What type of work was being performed? installing driveway, culvert
Party's explanation for damage a) thought they could use someones BUD ticket b) didn't think gas would be less than 18"
What repairs were made? _____
Any additional work to be performed? Yes No If yes, by whom? _____ Number of customers out 1 THAN 18"

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 mislabeled? (be specific) _____
Was line locating contractor on the job? Yes No URG

7-15-21
(Date of report)

[Signature]
(Signature of employee)

E028049
(Employee number)

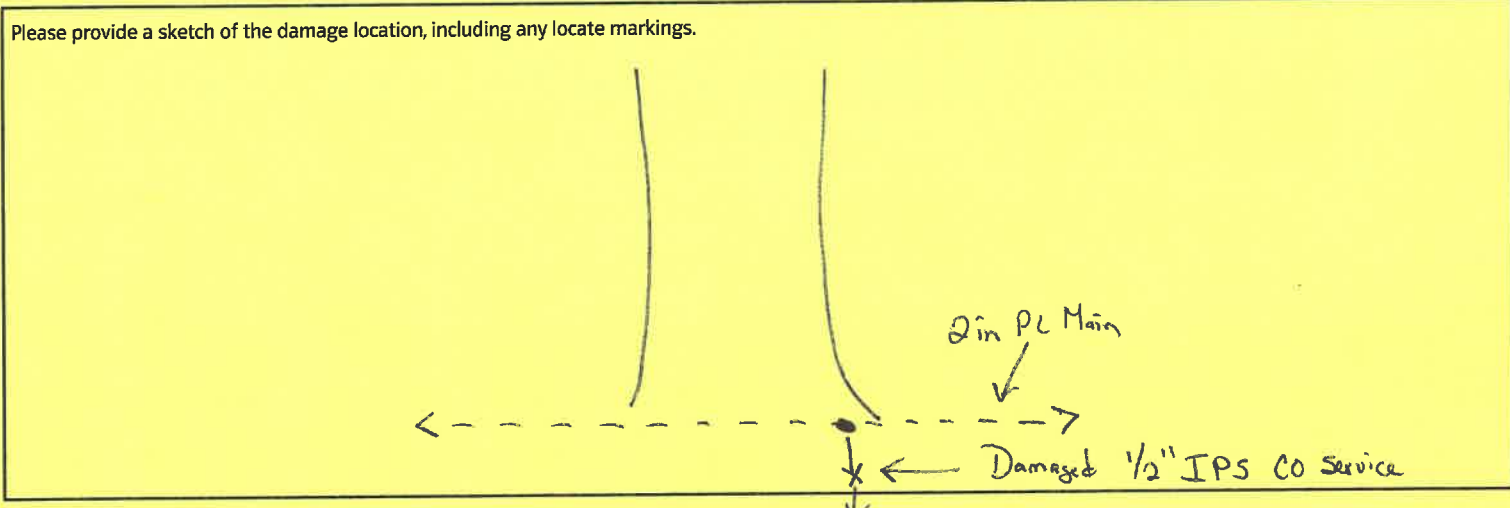
Approved _____

Date 7-16-21

Put any additional comments on back

Comments Repaired Co Service with 2 electrofusion couplers and 2 ft of pipe.
Tested @ 100#s for 10 mins OK.

Crew Personnel	Employee #	ST Hours	OT Hours	DT Hours	Unit #	Equipment
Stephen Bullard	9202	2	1/2		8368	<input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota
B. Cook	28049	5			4873	<input type="checkbox"/> Backhoe <input checked="" type="checkbox"/> Kubota
M. Kelien	29134	5				<input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota
						<input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota
						<input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota
						<input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota
						<input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota
						<input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota
						<input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota
						<input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota
						<input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota
						<input type="checkbox"/> Backhoe <input type="checkbox"/> Kubota



Material Used		
Qty.	Material	IIN#
2	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)	
2	1/2" IPS Electrofusion Couplers	





2021-07-15 17:10:10
37.8229928,-85.3958290



2021-07-15 17:10:19
37.8228928,-85.3958298



2021-07-15 17:18:19
37-8249920,-85.3958298



2021-07-15 17:18:22
37.8229928, -85.3858290



2021-07-15 17:10:23
37.8229928,-85.3958298



2021-07-15 17:10:28
37.8238986,-85.3958562





2021-07-15 17:10:37
37.8231440,-85.3961619



2021-07-15 17:10:41
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2021-07-15 17:10:57
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2021-07-15 17:10:59
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2021-07-15 17:11:00
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2021-07-16 17:43:57
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2021-07-15 17:14:03
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2021-07-15 17:14:06
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124



2021-07-15 17:26:37
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APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00381 DATED NOV 23 2022

TWO PAGES TO FOLLOW

Information and Instructions for Hearing

You are required to attend a formal hearing with the Kentucky Public Service Commission. Please note the hearing is scheduled in the **Eastern Time Zone**, and the hearing date and time are on the Order that accompanied these instructions.

You are **strongly encouraged** to download the GoToMeeting app now and be ready for your hearing. If you cannot appear via video using this app, at least ten days prior to your scheduled hearing you must call the Commission's offices at the number provided below. You will receive instructions on appearing in person in the Richard Raff Hearing Room of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky at the time and date of your scheduled hearing.

Please direct any questions to 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. 2022-00381 DATED NOV 23 2022

TEN PAGES TO FOLLOW

ESTADO DE KENTUCKY
ANTE LA COMISIÓN DE SERVICIOS PÚBLICOS

Concerniente:

CDN BUILDERS, LLC)	
)	
_____)	CASO NO.
)	2022-00381
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

CDN Builders, LLC (CDN Builders) 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 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 CDN Builders 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.

Y

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 CDN Builders 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. CDN Builders 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. CDN Builders 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. CDN Builders 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. CDN Builders notificará a la Comisión, al menos diez días antes de la audiencia, si CDN Builders 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 53870, 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. 2022-00381 FECHADO

SETENTA Y CUATRO PÁGINAS A SEGUIR

APÉNDICE B

APÉNDICE DE UNA ORDEN DE LA COMISIÓN DE SERVICIOS PÚBLICOS DE
KENTUCKY EN EL CASO No. 2022-00381 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.

APÉNDICE C

APÉNDICE DE UNA ORDEN DE LA COMISIÓN DE SERVICIOS PÚBLICOS DE
KENTUCKY EN EL CASO NO. 2022-00381 FECHADO

DIEZ PÁGINAS PARA SEGUIR

CDN BUILDERS, LLC
125 Sapphire Ct
Bardstown, KENTUCKY 40004

Danny Nalley
211 S Howard Ave
Bardstown, KENTUCKY 40004

CDN BUILDERS, LLC
128 Sapphire Ct
Bardstown, KENTUCKY 40004