

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MS CONSTRUCTION AND REMODELING SOLUTIONS, LLC)	
_____)	
ALLEGED VIOLATION OF UNDERGROUND FACILITY DAMAGE PREVENTION ACT)	CASE NO. 2024-00036

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.)

MS Construction and Remodeling Solutions, LLC (MS Construction and Remodeling) 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 April 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 MS Construction and Remodeling 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 MS Construction and Remodeling 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. MS Construction and Remodeling 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. MS Construction and Remodeling shall appear on April 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.

3. The April 26, 2024 hearing shall be conducted via video conferencing.

4. MS Construction and Remodeling 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. MS Construction and Remodeling shall notify the Commission at least ten days prior to the hearing if MS Construction and Remodeling 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.

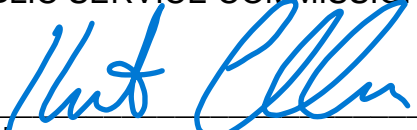
7. An individual may submit a response to the allegations contained in the Staff Incident Report without the representation of an attorney.

8. The Staff Incident Report 54473, attached to this Order as Appendix A, is made a part of the record in this case.

9. The April 26, 2024 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

ENTERED
MAR 04 2024 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2024-00036 DATED MAR 04 2024

TWENTY-FOUR PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Eric Tout **Incident ID** 54473 **Investigation** 10691
Incident Date 2/1/2022 3:10:00 PM **Report Submitted** 3/9/2022

Operator Information

Operator Duke Energy Kentucky, Inc. **Reported By** Bruce Taylor
Phone 5025633558 **Email** tyler.shelton@duke-energy.com

Incident Location 511 Kentaboo Ave **Locate Ticket Number** NO TICKET
Independence KY 41051
511 Kentaboo Ave
County Boone

Excavator Information

Excavator Joaquin Delgado **Organization ID** 4585693
MS Construction & Remodeling
Solutions LLC
Phone 513-410-8340 **Email** mscrs13@gmail.com
Address 6359 Jamesfield Ct **Locate Ticket Number** NO TICKET
Fairfield OH 45014

Damage Report (DR) Summary

Excavation Within 24" (Tolerance Zone)	Gas Or Hazardous Liquids		Type Of Equipment Used	Cost of Damage	Amount Billed
	Contained	Released			
No Call- KY Contact Center (811)	Yes	Yes	Not Specified	\$0.00	\$0.00

The Operator reports that the Excavator damaged a one-inch gas service, performing a deck structure installation and failed to contact (811). A Legal Notice of Gas Line Damage was mailed to the Excavator.

The DR is included as Attachment 1.

INVESTIGATION

On 10/12/23 the Operator, Duke's Tyler Shelton, provided the following documents:

- Damage Investigation Findings / with photographs: Outlined in the DR Summary & Attachment 1. Under Statements in the Findings Joaquin Delgado of MS Construction & Remodeling Solutions stated, "We were using an auger to install posts for a deck and hit gas service. I did not call USIC before digging. The home owner has contacted the locate company at some point in time." The photographs depict the incident location.
- Invoice: indicating the Operator billed the Excavator \$1,248.80 for the damage repair.

Duke's documents are included as Attachment 2.

On 10/16/23 a search of One Call Concepts' (811's) records from 12/01/21 thru 02/02/22 indicated one Emergency Locate Ticket (LT), 2202011264, was obtained on 02/01/22, by Duke Energy for the incident location to repair a gas service.

Search results & LT...1264 are included as Attachment 3.

A Past Due Notice was sent to the Excavator with a due date of 11/29/23.

The past Due Notice is included as Attachment 4.

PIPELINE DAMAGE INVESTIGATION REPORT

On 11/13/23 & 11/29/23 attempts to contact the Excavator at 513-410-8340 resulted in a message stating this is Joaquin wherein a message was left.

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, unless a future start date is agreed upon as provided in KRS 367.4917(7), notify each affected operator's designated protection notification center of the excavator's intended work and work schedule.

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	02/01/22	02/02/23

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

Duke Energy Kentucky, Inc.

Submitted 3/9/2022 Incident ID: 54473

[Set back to Edit](#)

[Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=54473\)](#)

Reported By:

Name: Bruce Taylor
Phone: 5025633558
Email: tyler.shelton@duke-energy.com

Gas Line Incident Occured:

Date: 2/1/2022
Time: 3:10 PM

Details:

Reported Date: 3/9/2022 2:20 PM

Incident Location Address:

Location: 511 Kentaboo Ave
Address: 511 Kentaboo Ave
City: Independence
State: KY
County: Boone
Zip: 41051
Confirm Code:

Number of Customers out: 1

Was gas or hazardous liquids contained in the underground facility?

Was gas or hazardous liquids released into the atmosphere?

Locate Request Ticket No.: NO TICKET

Excavator: Contractor

Excavator Address:

First Name: Joaquin

Last Name: Delgado

Organization ID:

Company: MS Construction and Remodelling

Phone: 5134108340

Email: mscrs13@gmail.com

Address: 6359 Jamesfield Ct

City: Fairfield

State: OH

Zip: 45014

Confirm Code: Y

Excavation Damage: No notification made to the One Call Center

Description of Incident No notification made to the one call center

Summary Information

3/9/2022

It has been determined that on February 1st, 2022 MS Construction & Remodeling Solutions LLC was performing a deck structure installation at the above stated location. During the excavation process MS Construction & Remodeling Solutions LLC came into contact with and thus damaged an underground natural gas facility owned by Duke Energy Company. MS Construction & Remodeling Solutions LLC failed to request or obtain a locate ticket prior to commencing excavation as required by KRS 367.4911.

Full details such as the cause

Extent of the damage 1" plastic gas service

Cost of the damage \$0.00

Steps taken to prevent re-occurrence

Amount billed to excavator \$0.00



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
psc.ky.gov

Kent A. Chandler
Chairman

Angie Hatton
Vice Chairman

Mary Pat Regan
Commissioner

September 27, 2023

Joaquin E. Delgado Mercado, Registered Agent
MS Construction & Remodeling Solutions LLC
6359 Jamesfield Ct.
Fairfield, OH 45014

Re: Violation of Kentucky **Underground Facility Damage**
Prevention Act Incident Number: **54473**.

LEGAL NOTICE OF GAS LINE DAMAGE

Dear Ms. Delgado Mercado:

The Kentucky Public Service Commission (Commission) received the attached report on **March 9, 2022**, regarding damage by **MS Construction & Remodeling Solutions** to a natural gas facility owned and/or operated by the **Duke Energy Kentucky, Inc.** The Gas Excavation Damage Report (Damage Report) from **Duke Energy Kentucky, Inc.** indicates that on **February 1, 2022, MS Construction & Remodeling Solutions** violated the Underground Facilities Damage Prevention Act at **511 Kentaboo Ave., Independence KY 41051 by failing to contact the Kentucky Contact Center (811) prior to excavating.**

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.

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, 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.

Based upon the allegations contained in the Damage Report and the Commission's records of prior underground facility damage, Commission Staff has determined that:

1. This incident is the first incident of damage to an underground facility involving **MS Construction & Remodeling Solutions** within the past 365 days.
2. The statutory provision that **MS Construction & Remodeling Solutions** is alleged

to have violated is:

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, unless a future start date is agreed upon as provided in KRS 367.4917(7), notify each affected operator's designated protection notification center of the excavator's intended work and work schedule.

3. The civil penalty for this alleged violation is \$1,250.00

RESPONSE REQUIRED FOR RESOLUTION

There are three options you may choose from to resolve this violation. *Please select a method of resolution listed below:*

1. **Dispute the Alleged Violation:** **MS Construction & Remodeling Solutions** has the right to dispute the allegations made by **Duke Energy Kentucky, Inc.** If you have additional facts or evidence that you wish to provide to dispute the allegations made in the Damage Report, please contact Eric V. Tout, Division of Inspections at ericv.tout@ky.gov or 502-782-2622, prior to paying the civil penalty.

2. **Penalty Payment:** This incident may be resolved by **MS Construction & Remodeling Solutions** paying the full amount of the civil penalty listed above. *Payment of the penalty will not be considered an admission of willfully violating any provision of the Act.*

If **MS Construction & Remodeling Solutions** does not wish to dispute the alleged violation, **MS Construction & Remodeling Solutions** should submit payment, within 30 days of the date of this letter, in the amount of \$1,250.00.

3. **Training & Reduced Penalty:** If this letter indicates this is **MS Construction & Remodeling Solutions** first alleged violation of the Act, **MS Construction & Remodeling Solutions** should register to attend a training course that if completed will **reduce the civil penalty amount due to \$250**. *Payment of the reduced penalty will not be considered an admission of willfully violating any provision of the Act.*

To register for the training course, go to <https://psc.ky.gov/classSignUp>. You will need your incident number: **54473** and assigned key: **10691** to register for the next available training date. Please understand that this training will be required as a contingency for the reduced penalty amount.

If the excavator would like to pay via electronic payment, please contact Andrea Wise at andrea.wise@ky.gov or (502) 782-2656 to have a digital invoice issued. If submitting payment by mail, please send a cashier's check or money order, made payable to **Kentucky State Treasurer**, to the address listed below.

Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602



September 27, 2023

Page 3

Please include the Incident Number 54473 on the cashier's check or money order submitted for payment or any email request for invoice.

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.

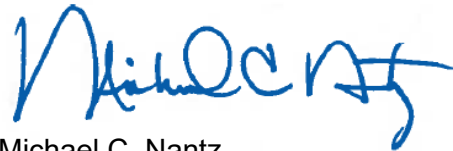
ADMINISTRATIVE PROCEEDING

If **MS Construction & Remodeling Solutions** does not, **within 30 days** of the date of this letter, pay the proposed civil penalty in full, or complete the course and pay the reduced penalty, or provide the Division of Inspections with additional information that relieves **MS Construction & Remodeling Solutions** of responsibility for the damage, the Commission will institute an administrative proceeding against **MS Construction & Remodeling Solutions**.

The Administrative Proceeding will include a formal hearing in front of the Commission, during which **MS Construction & Remodeling Solutions** will have the opportunity to present evidence, call witnesses, and cross examine witnesses called by the Division of Inspections. Failure to participate in these proceedings may result in a default judgement against **MS Construction & Remodeling Solutions** for the full amount of the proposed civil penalty. Pursuant to Kentucky law, **all business entities, including limited liability companies, must be represented at the administrative proceeding by legal counsel licensed to practice law in Kentucky.**

If you have questions regarding the Administrative Proceeding, please contact the attorney representing Division of Inspections at 502-791-0493 or jnorriganfield@ky.gov.

Sincerely,



Michael C. Nantz
Director, Division of Inspections

Attachment

Attachment 2

Tout, Eric V (PSC)

From: Shelton, Tyler <Tyler.Shelton@duke-energy.com>
Sent: Thursday, October 12, 2023 1:48 PM
To: Tout, Eric V (PSC)
Subject: RE: [EXTERNAL] 54473, 2/1/2022, 511 Kentaboo Ave., Independence, MS Construction & Remodeling Solutions
Attachments: 480312 - Claim Support Package 511 Kentaboo V2.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

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Thursday, October 12, 2023 5:12 AM
To: Shelton, Tyler <Tyler.Shelton@duke-energy.com>
Subject: [EXTERNAL] 54473, 2/1/2022, 511 Kentaboo Ave., Independence, MS Construction & Remodeling Solutions

***** 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 reports, 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*



Damage Investigation Findings

PRG CLAIM:	DK-480312	
DATE OF OUTAGE:	02/01/2022	03:10 PM
NOTIFICATION:	02/01/2022	03:11 PM
ARRIVAL:	02/01/2022	04:10 PM
LOCATION:	511 Kentoboo Ave, Florence, KY 41042	
LOCATE TICKET:	NONE	
INVESTIGATOR:	Christopher Hogle	

SUMMARY

On Tuesday, February 1, 2022, I was notified by Duke Energy about damage at 511 Kentoboo Ave, Florence, KY 41042. Duke Energy's Underground Facilities were damaged at the above stated location by an auger.



STATEMENTS

Joaquin Delgado / MS Construction & Remodeling Solutions LLC - *"We were using an auger to install posts for a deck. and hit gas service. I did not call USIC before digging. The home owner has contacted the locate company at some point in time."*

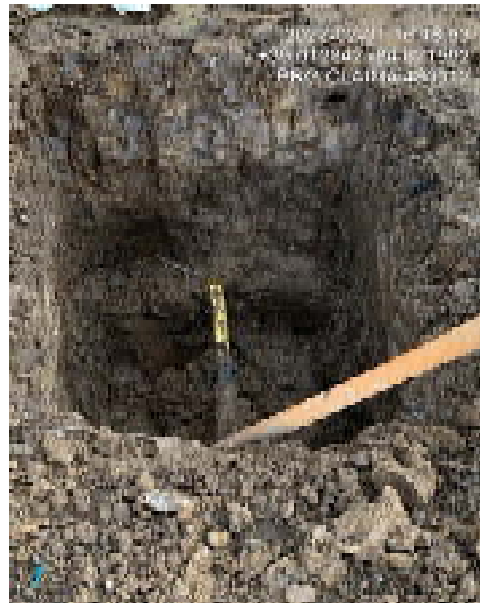
Roy Nickell / USIC / Damage Investigation Report# 22320220201039 - *"Cause Factor: No Ticket/Locate Request"*

DETERMINATION

It has been determined that on February 1st, 2022 MS Construction & Remodeling Solutions LLC was performing a deck structure installation at the above stated location. During the excavation process MS Construction & Remodeling Solutions LLC came into contact with and thus damaged an underground natural gas facility owned by Duke Energy Company. MS Construction & Remodeling Solutions LLC failed to request or obtain a locate ticket prior to commencing excavation as required by KRS 367.4911.

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

Failure to properly expose and protect underground facilities



480312 - Investigator1.jpeg



480312 - Investigator2.jpeg



480312 - Investigator3.jpeg



480312 - Investigator4.jpeg



480312 - Investigator5.jpeg



480312 - Investigator6.jpeg



480312 - Investigator7.jpeg



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-480312 Date: March 15, 2022 Terms: Due Upon Receipt Conf. Code # RHE5Y Bank: BOK Financial Account #: 5892990000037 Routing: 102000607 Remit Email: accounting@prgconsulting.net
--	--

Responsible for Damages: MS Construction & Remodeling Solutions LLC 6359 Jamesfield Ct Fairfield, OH 45014
--

Date & Address Where Damage Occurred: 2/1/2022 511 Kentoboo Ave Florence, KY 41042

<u>Labor and Materials Costs:</u>			
	<u>Units</u>	<u>Unit Rate</u>	<u>Amount</u>
<i>Internal Labor Costs</i>			
Mechanic Iii - C&M (12049)	3.00	35.79	\$107.37
Mechanic Operator Ii	3.00	68.10	\$204.30
Service Mechanic B	1.50	98.54	\$147.81
Service Mechanic A	1.20	82.82	\$99.38
Emergency Call Out	1.00	250.00	\$250.00
Digger Derrick / Line Truck	3.00	32.53	\$97.59
Material Handler 50'-60' 4X2	1.50	24.73	\$37.10
Digger Derrick / Line Truck	1.20	32.53	\$39.03
Damage Investigation/Quality Control	1.00		\$250.00
Sub-Total			\$1,232.58
<i>Material Costs</i>			
Pipe, 1" Cts, 250' Lg, Plain Ends, Extruded,	1.00	0.56	\$0.56
Coupling, Pipe, 1" Cts, Electrofusion, Pe 471	2.00	6.83	\$13.66
Sub-Total			\$14.22
Invoice Total			\$1,246.80

Please Make Check Payable to: Project Resources Group

For questions regarding this invoice, please contact: Kelly Boelens, (720) 795-9967 or via email Kelly.boelens@prgconsulting.net

Attachment 3

Search

[Clear all](#)

Search

 Partial entry accepted

Ticket information

Ticket number

State

KY 

Release date

12/01/21

02/02/22


[More options](#)

Geographic area


Filter ticket results within a geographic area by drawing a polygon around the desired area.




Location information

Street number 

511

Street name 

Kentaboo Ave


Cross street 

City/place 


County

[More options](#)

Caller information


Contact name 


Caller ID

Company name 

[More options](#)

Excavation information

Type of work 

Work done for 

[More options](#)

Results

1 records found

Ticket	Type	Release Date/Time	Company	Addr	Street	City/Place	County
2202011264	XML	02/01/22 03:46 pm	DUKE ENERGY	511	KENTABOO AVE	FLORENCE	BOONE

Show entries Showing 1 to 1 of 1 entries

Previous

1

Next



Kentucky 811

Ticket no	2202011264	Type	EMERGENCY CALL
Request date	02/01/22 03:46 pm		
Start date	02/01/22 03:42 pm		
Expiration date	02/22/22 11:59 pm		

Excavator information

Excavator name	DUKE ENERGY		
Address	1262 COX AVE ERLANGER, KY 41018		
Company phone	859-801-9978		
Requested by	DAN ROESSLER	Phone	859-801-9978
On-site name	DAN ROESSLER - CELL	On-site phone	859-801-9978
Contact email	DANIEL.ROESSLER@DUKE-ENERGY.COM		

Excavation information

Type of work	REPAIR GAS SERVICE		
Depth (ft)	3	Explosives	N
Area marked	U		
Job name/number			
Work done for	DUKE ENERGY GAS		

Location information

County	BOONE	City	FLORENCE
Address/street	511 KENTABOO AVE		
Nearest intersecting street	WALNUT CT		
Location of work	LOCATE THE ENTIRE PROPERTY		
Comments	CREW ON SITE		
Map Coord			
NW Lat 39.0135681	Lon -84.6222826	SE Lat 39.0120914	Lon -84.6193868

Members notified

Company name	District	Type	Status
TIME WARNER CABLE	0122	COMMUNICATIONS	No Conflict - The KY811 member has no facilities in the area of excavation described.
ALTA FIBER	0130	COMMUNICATIONS	
DUKE ENERGY KENTUCKY INC	0416	G	Marked - The approximate location has been marked. File a 2ND NOTICE with KY811 if marks are not complete and accurate.

Attachment 4



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
psc.ky.gov

Kent A. Chandler
Chairman

Angie Hatton
Vice Chairman

Mary Pat Regan
Commissioner

October 30, 2023

Joaquin E. Delgado Mercado, Registered Agent
MS Construction & Remodeling Solutions LLC
6359 Jamesfield Ct.
Fairfield, OH 45014

Re: Violation of Kentucky Underground Facility Damage Prevention
Act Incident Number: **54473**

Past Due Notice

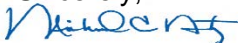
Dear Ms. Delgado Mercado:

This is a reminder that your account is now past due. Attached is the Notice of Gas Line Damage and the Damage Report that was previously sent to you for the above Incident, which our records indicate as **UNRESOLVED**.

If MS Construction & Remodeling Solutions does not, **within 30 days** of the date of this letter, pay the proposed civil penalty of **\$1,250.00** in full, or complete the course and pay the reduced penalty of **\$250.00**, or provide the Division of Inspections with additional information that relieves MS Construction & Remodeling Solutions of responsibility for the damage, the Commission will institute an administrative proceeding against MS Construction & Remodeling Solutions. Please refer to the attached Notice of Gas Line Damage for instructions to schedule training and/or submit payment.

Once a referral to the Commission is made for the Administrative Hearing, 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 demand for remedial measures and penalty assessment, please contact Eric V. Tout, Division of Inspections at ericv.tout@ky.gov or (502) 782-2622.

Sincerely,


Michael C. Nantz
Director, Division of Inspections

Attachment

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2024-00036 DATED MAR 04 2024

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. 2024-00036 DATED MAR 04 2024

EIGHT PAGES TO FOLLOW

ESTADO DE KENTUCKY
ANTE LA COMISIÓN DE SERVICIOS PÚBLICOS

Concerniente:

MS CONSTRUCTION AND REMODELING)	
SOLUTIONS, LLC)	
_____)	CASO NO.
)	2024-00036
)	
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

MS Construction and Remodeling Solutions, LLC (MS Construction and Remodeling) 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 26 de abril 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 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

² KRS 367.4901 a KRS 367.4917.

de la Ley está sujeta a la imposición de una sanción civil por un importe de 250 dólares por la primera infracción, no más de 1,000 dólares por la segunda infracción en el plazo de un año, y no más de 3,000 dólares por la tercera infracción y las siguientes. Además, cualquier persona cuya infracción de la ley provoque daños en una instalación subterránea que contenga cualquier material inflamable, tóxico, corrosivo o peligroso, o que provoque la liberación de cualquier material inflamable, tóxico, corrosivo o peligroso, está sujeta a una sanción adicional de hasta 1,000 dólares.

Tras recibir un informe de daños por excavación en su gasoducto subterráneo por parte de un operador, el personal de la Comisión (el Personal) llevó a cabo una investigación y preparó un Informe de Incidentes, cuya copia se adjunta a esta Orden como Apéndice A. En su Informe de Incidentes, el Personal cita a MS Construction and Remodeling 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 MS Construction and Remodeling 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. MS Construction and Remodeling 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. MS Construction and Remodeling comparecerá el 26 de abril de 2024, a las 9 a.m., Hora de verano del este, 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 26 de abril de 2024 se llevará a cabo por videoconferencia.

4. MS Construction and Remodeling 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. MS Construction and Remodeling notificará a la Comisión, al menos diez días antes de la audiencia, si MS Construction and Remodeling 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 54473, que se adjunta a esta Orden como Apéndice A, forma parte del expediente de este caso.

9. La audiencia 26 de abril de 2024 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. 2024-00036 FECHADO

VEINTICUATRO PÁGINAS A SEGUIR

APÉNDICE B

APÉNDICE DE UNA ORDEN DE LA COMISIÓN DE SERVICIOS PÚBLICOS DE KENTUCKY EN EL CASO No. 2024-00036 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.

*MS CONSTRUCTION AND REMODELING c/o
6359 Jamesfield Court
Fairfield, OHIO 45014