

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BRIMSTONE UTILITIES LLC	)	
	)	
_____	)	CASE NO.
	)	2025-00095
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 B.)

Brimstone Utilities LLC (Brimstone Utilities) 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).<sup>1</sup> A hearing in this case shall take place on July 24, 2025.

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

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<sup>1</sup> 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 Brimstone Utilities for violation of the following provision of the Act:

KRS 367.4911(10) – When excavation or demolition is necessary within the tolerance zone, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility, except that mechanized equipment may be used:

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds prima facie evidence that Brimstone Utilities 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. Brimstone Utilities shall submit to the Commission, via email sent to [PSCED@ky.gov](mailto: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. Brimstone Utilities shall appear on July 24, 2025, at 9 a.m. Eastern Daylight Time, in the Richard Raff Hearing Room at 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 24, 2025 hearing shall be conducted via video conferencing.
4. Brimstone Utilities shall attend the hearing by using the following link:

[https://teams.microsoft.com/join/19%3ameeting\\_M2Q4ZDM3ZjQtZTc3ZS00YzBiLTgwMDUtODU2ZTVhNTViNTk4%40thread.v2/0?context=%7b%22Tid%22%3a%22d77c7f4d-d767-461f-b625-0628792e9e2a%22%2c%22Oid%22%3a%220a598c1f-a179-47d5-a86f-480337c1709c%22%7d](https://teams.microsoft.com/join/19%3ameeting_M2Q4ZDM3ZjQtZTc3ZS00YzBiLTgwMDUtODU2ZTVhNTViNTk4%40thread.v2/0?context=%7b%22Tid%22%3a%22d77c7f4d-d767-461f-b625-0628792e9e2a%22%2c%22Oid%22%3a%220a598c1f-a179-47d5-a86f-480337c1709c%22%7d)

Meeting ID: 275 502 115 509

Passcode: Wo2gW2yB

5. Brimstone Utilities shall notify the Commission at least ten days prior to the hearing if Brimstone Utilities 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 55497, attached to this Order as Appendix A, is made a part of the record in this case.

9. The July 24, 2025 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. 2025-00095 DATED APR 25 2025

TWENTY-SIX PAGES TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

**Investigator** Eric Tout **Incident ID** 55497 **Investigation** 12149  
**Incident Date** 2/27/2023 10:00:00 AM **Report Submitted** 3/28/2023

## Operator Information

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

**Incident Location** 20 Elmendorf Frankfort KY 40601 **Locate Ticket Number** 230480074

**County** Franklin

## Excavator Information

**Excavator** Stan Morgan **Organization ID** 1042033  
 Brimstone Utilities LLC  
**Phone** 270-952-4543 **Email**  
**Address** PO Box 43 **Locate Ticket Number** 230480074  
 Whitesburg KY 41837

## Damage Report (DR) Summary

Excavation Within 24" (Tolerance Zone)	Gas Or Hazardous Liquids		Type Of Equipment Used	Cost of Damage	Amount Billed
	Contained	Released			
Yes	Yes	Yes	Mechanized/Boring	\$2,000.00	\$2,000.00

The Operator reports that the Excavator damaged a correctly marked two-inch gas main while boring to install conduit.

**The DR is included as Attachment 1.**

## Locate Ticket (LT) Summary

Ticket #	Valid	Initial Date	Expiration Date (21 calendar days from initial date)	IncidentDate	# of Days Expired	Within Scope of Excavation
230480074	Yes	02/17/23	03/10/23	02/27/23	N/A	Yes

**The LT is included as Attachment 2.**

## INVESTIGATION

On 11/11/24, the Operator, Columbia's James Rice, provided the following documents.

- DR: Outlined in the DR Summary & Attachment 1.
- Four Photographs: Indicating the damage occurred within the tolerance zone of 24-inches.
- Invoice & Check Copy: Indicating the Excavator paid the Operator \$2,785.16 for the damage repair.

**Columbia's documents are included as Attachment 3.**

On 11/13/24, an attempt to contact the Excavator at 270-952-4543 resulted in the individual answering that they have no knowledge of Brimstone Utilities. An attempt to contact the Excavator at 270-952-5953 (from the LT) resulted in voicemail picking up wherein a message was left.

On 11/20/24, a second attempt to contact the Excavator at 270-952-5953 resulted in a voice message being left. An email to [david@brimstoneutilities.com](mailto:david@brimstoneutilities.com) (found on the LT) was sent.

# PIPELINE DAMAGE INVESTIGATION REPORT

The email to Brimstone Utilities is included as Attachment 4.

## VIOLATIONS<sup>1</sup>

**367.4911(10)** When excavation or demolition is necessary within the tolerance zone, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

### # of Offences Within 365 Days

(Including this incident)

<b>Excavator</b>	<b>Last Offence Incident #</b>	<b>Last Offence Incident Date</b>	<b>Revert to 1<sup>st</sup> Offence Date</b> (Last Offence Date +366 Days)
1 <sup>st</sup>	See above	02/27/23	02/28/24

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<sup>1</sup> A revision of the Underground Facility Damage Prevention Act took effect on January 1, 2022. All incidents of damage dated prior to January 1, 2022 will be reviewed under the former version of the Act

# Attachment 1

# Gas Excavation Damage Report

## Columbia Gas of Kentucky, Inc.

Submitted 3/28/2023 Incident ID: 55497

[Set back to Edit](#)

[Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=55497\)](#)

### Reported By:

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

### Gas Line Incident Occured:

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**Date:** 2/27/2023  
**Time:** 10:00 AM

### Details:

---

**Reported Date:** 3/28/2023 4:30 PM

### Incident Location Address:

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**Location:**  
**Address:** 20 Elmendorf  
**City:** Frankfort  
**State:** KY  
**County:** Franklin  
**Zip:** 40601  
**Confirm Code:**

**Number of Customers out:**

**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.:** 230480074

**Type of equipment involved:** Select Detail

**Distance from the nearest communication  
terminal:** Feet Inches

**Depth of damage from the surface:** Feet Inches

**Excavator:** Contractor

## Excavator Address:

---

**First Name:** Stan

**Last Name:** Morgan

**Organization ID:**

**Company:** Brimstone UTI

**Phone:** 270-952-4543

**Email:**

**Address:** PO Box 43

**City:** Whitesburg

**State:** KY

**Zip:** 41837

**Confirm Code:**

**Excavation Damage:** Other insufficient excavation practices

**Description of Incident** Brimstone UTI struck a plastic two-inch natural gas main line with mechanized equipment.

## Summary Information

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3/28/2023

**Full details such as the cause** Brimstone UTI was working in an area with a locate ticket. While boring to install conduit, Brimstone UTI struck a plastic two-inch natural gas main line with mechanized equipment causing damage to the accurately marked line.

**Extent of the damage** A plastic two-inch natural gas service line was punctured, and the line was repaired.

**Cost of the damage** \$2,000.00

**Steps taken to prevent re-occurrence** CKY employees advised Brimstone UTI of the KY 811 Dig Law, and to use caution within the tolerance zone of a marked facility.

**Amount billed to excavator** \$2,000.00

# Attachment 2

## Kentucky 811

<b>Ticket no</b>	230480074	<b>Type</b>	NORMAL NXT
<b>Request date</b>	02/17/23 09:15 am		
<b>Start date</b>	02/23/23 12:00 am		
<b>Expiration date</b>	03/10/23 11:59 pm		

### Excavator information

<b>Excavator name</b>	BRIMSTONE UTILITIES LLC		
<b>Address</b>	218 FULTZ RD THORTON, KY 41855		
<b>Company phone</b>	270-952-5953		
<b>Requested by</b>	DAVID MORGAN	<b>Phone</b>	270-952-5953
<b>On-site name</b>	DAVID MORGAN	<b>On-site phone</b>	270-952-5953
<b>Contact email</b>	<a href="mailto:david@brimstoneutilities.com">david@brimstoneutilities.com</a>		

### Excavation information

<b>Type of work</b>	BORING/EXCAVATING FOR INSTALLING CONDUIT FOR FIBER		
<b>Depth (ft)</b>	6	<b>Explosives</b>	N
<b>Area marked</b>	Y		
<b>Job name/number</b>			
<b>Work done for</b>	BRIMSTONE UTILITIES		

### Location information

<b>County</b>	FRANKLIN	<b>City</b>	FRANKFORT
<b>Address/street</b>	ELMENDORF		
<b>Nearest intersecting street</b>	STONEHEDGE ST		
<b>Location of work</b>	STARTING IN THE REAR PROPERTY 20 ELMENDORF LOCATE EAST TO THE CENTER OF ELMENDORF.MARK 10 FEET EITHER SIDE OF THE ROUTE MARKED IN WHITE PAINT. MARK FOLLOWING THE ROUTE ESE FOR 152 FEET.  PAINT AND FLAG.  ROUTE COORDINATES: BEGIN LAT:38.2056753, LON:-84.8074712 TO LAT:38.2055433, LON:-84.8069673 END.		

### Comments

#### Map Coord

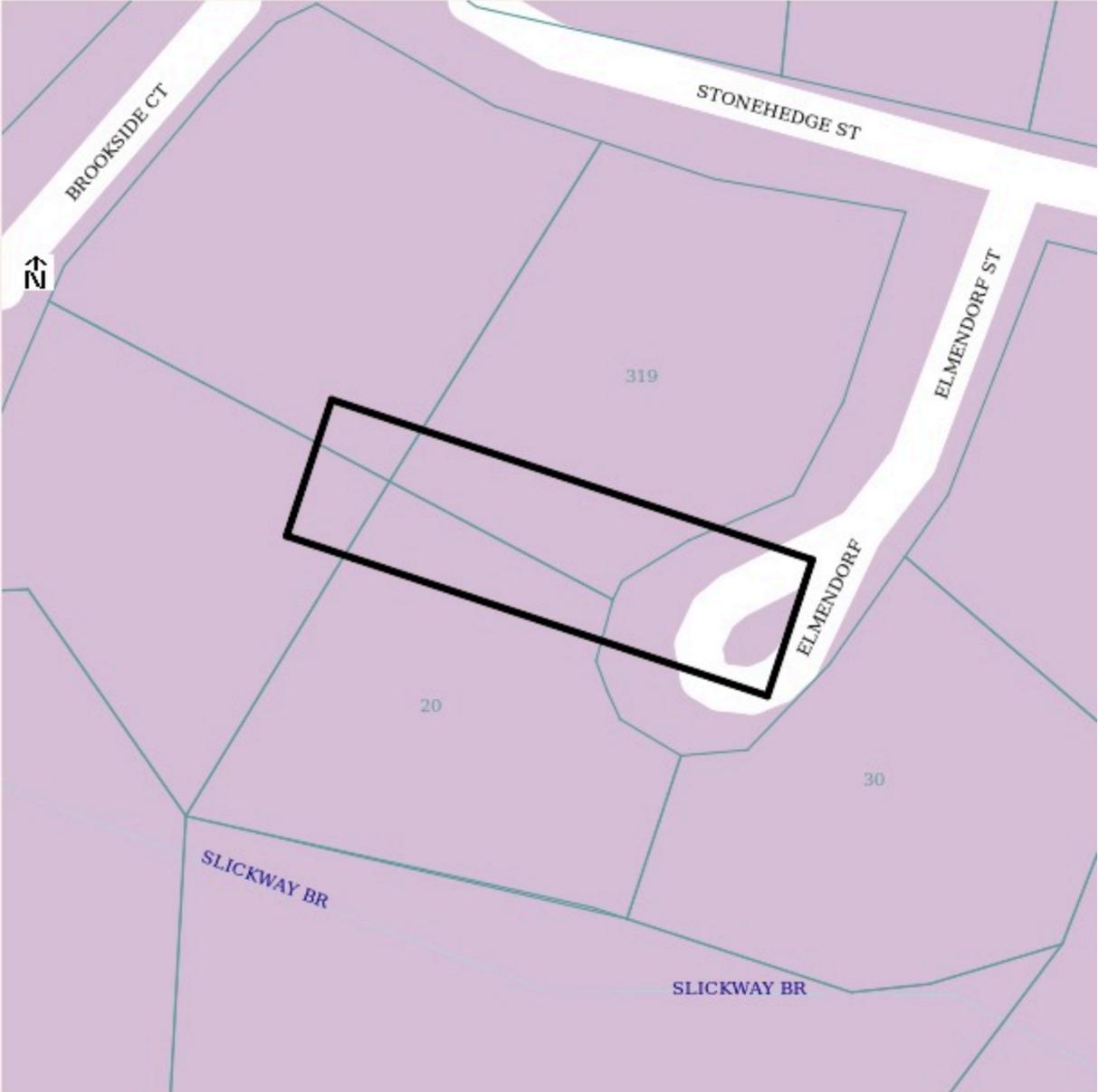
<b>NW Lat</b> 38.2057794	<b>Lon</b> -84.8076032	<b>SE Lat</b> 38.2054392	<b>Lon</b> -84.8068353
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### Members notified

<b>Company name</b>	<b>District</b>	<b>Type</b>	<b>Status</b>
FRANKFORT PLANT BOARD-ELECTRIC	0093	E	Marked - The approximate location has been marked. File a 2ND NOTICE with KY811 if

			marks are not complete and accurate.
FRANKFORT PLANT BOARD FIBER	0093_FO	FO	No Conflict - The KY811 member has no facilities in the area of excavation described.
FRANKFORT PLANT BOARD TELECOMM	0093_T	TEL	No Conflict - The KY811 member has no facilities in the area of excavation described.
FRANKFORT PLANT BOARD-CABLE TV	0093_TV	TV	Marked - The approximate location has been marked. File a 2ND NOTICE with KY811 if marks are not complete and accurate.
FRANKFORT PLANT BOARD WATER	0093_W	W	Marked - The approximate location has been marked. File a 2ND NOTICE with KY811 if marks are not complete and accurate.
AT&T DISTRIBUTION	0139	COMMUNICATIONS	Marked - The approximate location has been marked. File a 2ND NOTICE with KY811 if marks are not complete and accurate. (2023/02/23 09:36 marked)
FRANKFORT SEWER	0211	S	Marked - The approximate location has been marked. File a 2ND NOTICE with KY811 if marks are not complete and accurate.
KENTUCKY UTILITIES	0326	E	No Conflict - The KY811 member has no facilities in the area of excavation described. (2023/02/23 09:36 marked)
COLUMBIA GAS	2623	PIPELINE	Marked - The approximate location has been marked. File a 2ND NOTICE with KY811 if marks are not complete and accurate.

Map



BROOKSIDE CT

STONEHEDGE ST

ELMENDORF ST

319

ELMENDORF

20

30

SLICKWAY BR

SLICKWAY BR

# Attachment 3



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**RE: 55497, 2/27/2023, 20 Elmendorf, Frankfort, Brimstone Utilities**

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**From** Rice \ James \ D <jamesrice@nisource.com>

**Date** Mon 11/11/2024 1:29 PM

**To** Tout, Eric V (PSC) <ericv.tout@ky.gov>

 1 attachment (27 MB)

55497 ETout Request 1.pdf;

**\*\*CAUTION\*\* PDF attachments may contain links to malicious sites. Please contact the COT Service Desk [ServiceCorrespondence@ky.gov](mailto:ServiceCorrespondence@ky.gov) for any assistance.**

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**This Message Originated from Outside the Organization**

This Message Is From an External Sender.

Report Suspicious

Hi Eric,

See attached for requested information.

-james

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**From:** Tout, Eric V (PSC) <ericv.tout@ky.gov>

**Sent:** Wednesday, November 6, 2024 11:35 AM

**To:** Rice \ James \ D <jamesrice@nisource.com>

**Subject:** RE: 55497, 2/27/2023, 20 Elmendorf, Frankfort, Brimstone Utilities

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**This Message Is From an External Sender**

This message came from outside your organization.

Think before you click links or open attachments. If suspicious, please use the report phishing button or forward to [security@nisource.com](mailto:security@nisource.com) for review.

Doing follow up.

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**From:** Tout, Eric V (PSC)

**Sent:** Wednesday, October 23, 2024 5:35 AM

**To:** [JamesRice@nisource.com](mailto:JamesRice@nisource.com)

**Subject:** 55497, 2/27/2023, 20 Elmendorf, Frankfort, Brimstone Utilities

Hello James,

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*



## PSC Gas Excavation Damage Report

### Excavation Damage Occurred

**Date:** 02/27/2023

**Time:** 10:00 AM

**JO #:** 23-1693969-00

### Incident Location

**Address:** 20 Elmendorf

**City:** Frankfort

**County:** Franklin

**Zip:** 40601

**# Cust. Lost:** 3

**Was gas released into the atmosphere?** Y

**Locate Request Ticket Number:** 230480074

### Excavator Information

**Excavator Type:** Contractor

**First Name:** Stan

**Last Name:** Morgan

**Company:** Brimstone UTI

**Phone:** 270-952-4543

**Email:**

**Address:** PO Box 43

**City:** Whitesburg

**State:** KY

**Zip:** 41837



## **Incident Details**

**KY PSC - Cause of Damage:** Other insufficient excavation practices

**Columbia DIMP Root Cause:** Excavator Error/Exercise reasonable care

**Description of Incident:** Brimstone UTI struck a plastic two-inch natural gas main line with mechanized equipment.

**Full details such as the cause:** Brimstone UTI was working in an area with a locate ticket. While boring to install conduit, Brimstone UTI struck a plastic two-inch natural gas main line with mechanized equipment causing damage to the accurately marked line.

**Extent of the damage:** A plastic two-inch natural gas service line was punctured, and the line was repaired.

**Cost of the damage:** \$2,000

**Steps taken to prevent re-occurrence:** CKY employees advised Brimstone UTI of the KY 811 Dig Law, and to use caution within the tolerance zone of a marked facility.

**Amount billed to excavator:** \$2,000



DAMAGE

MARK

BURY GAS LINE









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

3101 N Ridge Road E  
Lorain, Ohio 44055

04/19/2023

(440)420-2717

Brimstone Utilities LLC  
218 Fultz Rd  
Thornton, Kentucky 41855

Re: Our Claim: KY23-1028

Gentlemen,

Enclosed is our damage claim invoice in the amount of \$2,785.16, which is the expense our company incurred as the result of your contact with our facilities, located in the vicinity of 20 Elmendorf Ct, Frankfort, Kentucky 40601. Our reports indicate that our facilities were damaged on 02/27/2023, due to failure to exercise reasonable care.

If you have insurance to cover this type of damage claim, please forward the enclosed damage claim invoice and envelope to your insurance carrier for payment. Then please advise our department of your insurance company's name and address so that we can follow the matter to a conclusion. In the event you are not insured, your check, draft or money order in the above amount is hereby requested. To insure proper credit to your account, please remit the top portion of the damage claim invoice, along with your payment, in the enclosed pre-addressed envelope.

If you wish to discuss this matter further, please contact the undersigned.

Sincerely,

Nicole Gillette  
Facility Damage Coordinator  
ngillette@nisource.com

Enclosure

# Columbia Gas/NiSource

## INVOICE

**CLAIM NO.:** KY23-1028

**JOB ORDER NO.:** 23-1693969-00

**DATE:** April 19, 2023

**MRA ACCOUNT NUMBER:** 21378789-000-001-0

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

Brimstone Utilities LLC  
218 Fultz Rd  
Thornton, Kentucky 41855

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

AMOUNT DUE

\$2,785.16

PLEASE CUT HERE AND RETURN TOP WITH PAYMENT

Itemization of the charges for the damages which occurred on 02/27/2023 in the vicinity of 20 Elmendorf Ct, Frankfort, Kentucky 40601.

ITEMS	AMOUNT
Labor	\$1,062.80
Materials	\$7.87
Equipment	\$1,679.11
Gas Loss	\$34.91
Contracted Fees	\$0.00
Taxes	\$0.47
<b>TOTAL EXPENSE</b>	<b>\$2,785.16</b>

Notes:

<https://www.columbiagasky.com>

You can pay online with this link using your credit card, debit card, PayPal, Venmo or Amazon Pay. Our payment processing vendor, Paymentus, will charge a convenience fee per transaction.

**If you have any questions regarding this bill, please contact Nicole Gillette,  
Facility Damage Coordinator, at (440)420-2717.**



# Columbia Gas/NiSource

## INVOICE

**CLAIM NO.:** KY23-1028

**JOB ORDER NO.:** 23-1693969-00

**DATE:** April 19, 2023



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

3101 N Ridge Road E  
Lorain, Ohio 44055

04/19/2023

(440)420-2717

Brimstone Utilities LLC  
218 Fultz Rd  
Thornton, Kentucky 41855

Re: Our Claim: KY23-1028

Brimstone Utilities LLC,

Enclosed is the break down of the labor, material and equipment for the above mentioned facility damage claim.

LABOR: 3 employees = 14 hours & 43 minutes @ regular time

MATERIAL: (2) couplings

EQUIPMENT: Truck time = 14 hours & 43 minutes  
General Equipment time = 6 hours & 52 minutes  
Car time = 1 hour & 30 minutes  
Damage Processing fee = \$476.00  
Field Operations Leader on-site = 1 hour & 30 minutes

We trust the information contained herein is sufficient to expedite your payment immediately.

Thank you,

Nicole Gillette  
Facility Damage Coordinator  
ngillette@nisource.com

21318789-000-001-0

2186

**BRIMSTONE CONSULTING LLC**

GENERAL ACCOUNT  
PO BOX 43  
MAYKING, KY 41837



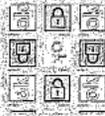
05/12/2023

PAY TO THE ORDER OF Columbia Gas/ NiSource

\$ \*\*2,785.16

Two thousand seven hundred eighty-five and 16/100\*\*\*\*\* DOLLARS

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



*Colo T. [Signature]*  
AUTHORIZED SIGNATURE

MEMO Claim: KY23-1028



5/17/23 ng

*[Signature]*

MAY 16 2023

# NiSource, Inc.

KY23-1028

**Coordinator** Nicole Gillette  
**Status** Closed

Damager: Brimstone Utilities LLC

**GENERAL**

<b>DIS Account Number</b>	<b>WMS Job Order</b>	<b>Distribution Plant Inspection F</b>
21378789-000-001-0	23-1693969-00	D308962

**TIMELINE**

<b>Damage Date</b>	<b>Operations Date</b>	<b>Last Payment</b>
02/27/2023	03/24/2023	05/16/2023
<b>Received Date</b>	<b>Bill Date</b>	<b>Closed Date</b>
03/24/2023	04/19/2023	05/16/2023

**CLOSED**

Paid in full

# Attachment 4

**From:** [Tout, Eric V \(PSC\)](mailto:Tout, Eric V (PSC))  
**To:** [david@brimstoneutilities.com](mailto:david@brimstoneutilities.com)  
**Subject:** 55497, 2/27/2023, 20 Elmendorf, Frankfort, Brimstone Utilities  
**Date:** Wednesday, November 20, 2024 9:03:00 AM  
**Attachments:** [image001.png](#)  
[Attach 1- DR\\_55497.pdf](#)  
[LN Brimstone Utilities 55497.pdf](#)  
[PD Brimstone Utilities 55497.pdf](#)

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Brimstone Utilities,

Attempts, by telephone (270-952-4543 & 270-952-5953) & mail, to contact Brimstone Utilities have been made in regard to the attached. The Damage Report outlines Columbia Gas's report of underground gas line damage. The Legal Notice of Gas Line Damage provides instructions on how to resolve this matter. The Past Due notice indicates that a response to the Legal Notice is due on or before 12/07/24.

If you have questions do not hesitate in contacting me.

*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*



**NOTICE OF CONFIDENTIALITY**

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APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2025-00095 DATED APR 25 2025

SIX PAGES TO FOLLOW

ESTADO DE KENTUCKY  
ANTE LA COMISIÓN DE SERVICIOS PÚBLICOS

Concerniente:

BRIMSTONE UTILITIES LLC	)	
	)	
_____	)	CASO NO.
	)	2025-00095
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

Brimstone Utilities LLC (Brimstone Utilities) 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).<sup>1</sup> Una audiencia sobre este caso tendrá lugar el 24 de julio 2025.

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

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<sup>1</sup> 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 Brimstone Utilities 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 Brimstone Utilities 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. Brimstone Utilities 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](mailto:PSCED@ky.gov) con el número de caso de este procedimiento en el asunto del mensaje.

2. Brimstone Utilities comparecerá el 24 de julio 2025, a las 9 a.m. Horario 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 24 de julio 2025 se llevará a cabo por videoconferencia.

4. Brimstone Utilities deberá asistir a la audiencia utilizando el siguiente enlace:

[https://teams.microsoft.com//meetup-join/19%3ameeting\\_M2Q4ZDM3ZjQtZTc3ZS00YzBiLTgwMDUtODU2ZTVhNTViNTk4%40thread.v2/0?context=%7b%22Tid%22%3a%22d77c7f4d-d767-461f-b625-0628792e9e2a%22%2c%22Oid%22%3a%220a598c1f-a179-47d5-a86f-480337c1709c%22%7d](https://teams.microsoft.com//meetup-join/19%3ameeting_M2Q4ZDM3ZjQtZTc3ZS00YzBiLTgwMDUtODU2ZTVhNTViNTk4%40thread.v2/0?context=%7b%22Tid%22%3a%22d77c7f4d-d767-461f-b625-0628792e9e2a%22%2c%22Oid%22%3a%220a598c1f-a179-47d5-a86f-480337c1709c%22%7d)

Meeting ID: 275 502 115 509  
Passcode: Wo2gW2yB

5. Brimstone Utilities notificará a la Comisión, al menos diez días antes de la audiencia, si Brimstone Utilities 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 55497, que se adjunta a esta Orden como Apéndice A, forma parte del expediente de este caso.

9. La audiencia 24 de julio 2025 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. 2025-00095 FECHADO

VEINTISEIS PÁGINAS A SEGUIR

\*David Morgan  
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Thornton, KY 41855