

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

M&M CONTRACTORS, INC.)	
)	
_____)	CASE NO.
)	2025-00096
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.)

M&M Contractors, Inc. (M&M Contractors) has been named as a party to an investigation before the Kentucky Public Service Commission (Commission) for allegedly violating the Kentucky Underground Facility Damage Prevention Act (Act).¹ A hearing in this case shall take place on July 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

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 M&M Contractors 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, 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.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds prima facie evidence that M&M Contractors 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. M&M Contractors 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. M&M Contractors 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. M&M Contractors shall attend the hearing by using the following link:

https://teams.microsoft.com/join/19%3ameeting_M2Q4ZDM3ZjQtZTc3ZS00YzBiLTgwMDUtODU2ZTVhNTViNTk4%40thread.v2/0?context=%7b%22id%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. M&M Contractors shall notify the Commission at least ten days prior to the hearing if M&M Contractors 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 55525, 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. 2025-00096 DATED APR 25 2025

EIGHTEEN PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Eric Tout **Incident ID** 55525 **Investigation** 12210
Incident Date 3/28/2023 10:46:00 AM **Report Submitted** 4/7/2023

Operator Information

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

Incident Location 569 N Limestone St
Lexington KY 40508 **Locate Ticket Number**

County Fayette

Excavator Information

Excavator Bradley Buchanan **Organization ID** 0587169
M&M Contractors, Inc.
Phone 502-316-3295 **Email**
Address 2072 Glane Ln **Locate Ticket Number**
Lexington KY 40513

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	Mechanized/Backhoe	\$2,200.00	\$2,200.00

The Operator reports that the Excavator damaged a one-inch gas service with a backhoe installing a retaining wall and failed to contact 811.

The DR is included as Attachment 1.

INVESTIGATION

On 11/21/24, the Operator, Columbia's James Rice, provided the following documents:

- DR: Outlined in the DR Summary & Attachment 1.
- Three Photographs: Depicting the incident location.
- Invoice: Indicating the Operator billed the Excavator \$3,231.51 for the damage repair.

Columbias Documents are included as Attachment 2.

On 12/09/24, Adam McKee of M&M Contractors called about the Past Due Notice and requested that all the notices to be email to igatid@gmail.com. Mr. McKee state that M&M Contractors would pay the reduced penalty and attend the Damage Prevention Course.

VIOLATIONS¹

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

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

PIPELINE DAMAGE INVESTIGATION REPORT

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	55525	03/28/23	03/28/24
Resolved Incidents			
1 st	43278	12/07/20	

Attachment 1

Gas Excavation Damage Report

Columbia Gas of Kentucky, Inc.

Submitted 4/7/2023 Incident ID: 55525

[Set back to Edit](#)

[Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=55525\)](#)

Reported By:

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

Gas Line Incident Occured:

Date: 3/28/2023
Time: 10:46 AM

Details:

Reported Date: 4/7/2023 6:40 PM

Incident Location Address:

Location:
Address: 569 N Limestone St
City: Lexington
State: KY
County: Fayette
Zip: 40508
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.:

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: Bradley

Last Name: Buchanan

Organization ID:

Company: M&M Contractors

Phone: 502-316-3295

Email:

Address: 2072 Glane Ln

City: Lexington

State: KY

Zip: 40513

Confirm Code:

Excavation Damage: No notification made to the One Call Center

Description of Incident	M&M Contractors struck a plastic one-inch natural gas service line with mechanized equipment.
Summary Information	
4/7/2023	
Full details such as the cause	M&M Contractors was excavating without a locate ticket. While digging to remove and install a retaining wall with mechanized equipment (backhoe), M&M Contractors damaged a plastic one-inch natural gas service line.
Extent of the damage	A plastic one-inch natural gas service line was severed, and the line was repaired.
Cost of the damage	\$2,200.00
Steps taken to prevent re-occurrence	CKY employees advised M&M Contractors to always call 811 prior to any excavating activities.
Amount billed to excavator	\$2,200.00

Attachment 2

From: [Rice \ James \ D](#)
To: [Tout, Eric V \(PSC\)](#)
Subject: RE: 55525, 3/28/2023, 569 N Limestone St., Lexington, M&M Contractors
Date: Thursday, November 21, 2024 12:32:09 PM
Attachments: [55525 ETout request for info.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](#)

Hi Eric,

See attached.

Thanks,

-james

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Thursday, November 21, 2024 11:21 AM
To: Rice \ James \ D <jamesrice@nisource.com>
Subject: RE: 55525, 3/28/2023, 569 N Limestone St., Lexington, M&M Contractors

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 for review.

Doing follow up.

From: Tout, Eric V (PSC)
Sent: Tuesday, November 12, 2024 6:56 AM
To: JamesRice@nisource.com
Subject: 55525, 3/28/2023, 569 N Limestone St., Lexington, M&M Contractors

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: 03/28/2023

Time: 10:46 AM

JO #: 23-1767175-00

Incident Location

Address: 569 N Limestone St

City: Lexington

County: Fayette

Zip: 40508

Cust. Lost: 0

Was gas released into the atmosphere? Y

Locate Request Ticket Number: N/A

Excavator Information

Excavator Type: Contractor

First Name: Bradley

Last Name: Buchanan

Company: M&M Contractors

Phone: 502-316-3295

Email:

Address: 2072 Glane Ln

City: Lexington

State: KY

Zip: 40513



Incident Details

KY PSC - Cause of Damage: No notification made to the One Call Center

Columbia DIMP Root Cause: Failed To Notify One Call/Failure to call one call center

Description of Incident: M&M Contractors struck a plastic one-inch natural gas service line with mechanized equipment.

Full details such as the cause: M&M Contractors was excavating without a locate ticket. While digging to remove and install a retaining wall with mechanized equipment (backhoe), M&M Contractors damaged a plastic one-inch natural gas service line.

Extent of the damage: A plastic one-inch natural gas service line was severed, and the line was repaired.

Cost of the damage: \$2,200

Steps taken to prevent re-occurrence: CKY employees advised M&M Contractors to always call 811 prior to any excavating activities.

Amount billed to excavator: \$2,200







Columbia Gas/NiSource

INVOICE

CLAIM NO.: KY23-1037

JOB ORDER NO.: 23-1767175-00

DATE: May 01, 2023

MRA ACCOUNT NUMBER: 21383707-000-002-4

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

M & M Contracting LLC
2072 Glade Ln
Lexington, Kentucky 40513

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

AMOUNT DUE

\$3,231.51

PLEASE CUT HERE AND RETURN TOP WITH PAYMENT

Itemization of the charges for the damages which occurred on 03/28/2023 in the vicinity of 569 N Limestone St, Lexington, Kentucky 40508.

ITEMS	AMOUNT
Labor	\$1,501.19
Materials	\$131.36
Equipment	\$1,586.57
Gas Loss	\$4.51
Contracted Fees	\$0.00
Taxes	\$7.88
TOTAL EXPENSE	\$3,231.51

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.: KY23-1037

JOB ORDER NO.: 23-1767175-00

DATE: May 01, 2023



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

3101 N Ridge Road E
Lorain, Ohio 44055

05/01/2023

(440)420-2717

M & M Contracting LLC
2072 Glade Ln
Lexington, Kentucky 40513

Re: Our Claim: KY23-1037

M & M Contracting LLC,

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

LABOR: 5 employees = 17 hours & 30 minutes @ regular time; 2 hours & 11 minutes @ time and a half

MATERIAL: (1) electronic marker, (1) anode, (1) plug

EQUIPMENT: Truck time = 14 hours & 14 minutes
General Equipment time = 5 hours
Damage Processing fee = \$476.00
Pavement Restoration = \$282.50

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

Thank you,

Nicole Gillette
Facility Damage Coordinator
ngillette@nisource.com



Columbia Gas of Kentucky, Inc.
Damage Prevention Support

3101 N Ridge Road E
Lorain, Ohio 44055

05/01/2023

(440)420-2717

M & M Contracting LLC
2072 Glade Ln
Lexington, Kentucky 40513

Re: Our Claim: KY23-1037

Gentlemen,

Enclosed is our damage claim invoice in the amount of \$3,231.51, which is the expense our company incurred as the result of your contact with our facilities, located in the vicinity of 569 N Limestone St, Lexington, Kentucky 40508. Our reports indicate that our facilities were damaged on 03/28/2023, due to failure to request a utility locate.

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

NiSource, Inc.

KY23-1037

Coordinator Nicole Gillette
Status Closed

Damager: M & M Contracting LLC

GENERAL

DIS Account Number	WMS Job Order	Distribution Plant Inspection F
21383707-000-002-4	23-1767175-00	D309302

TIMELINE

Damage Date	Operations Date	Last Payment
03/28/2023	03/30/2023	12/21/2023
Received Date	Bill Date	Closed Date
04/04/2023	05/01/2023	12/21/2023

CLOSED

paid in full

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2025-00096 DATED APR 25 2025

SIX PAGES TO FOLLOW

ESTADO DE KENTUCKY
ANTE LA COMISIÓN DE SERVICIOS PÚBLICOS

Concerniente:

M&M CONTRACTORS, INC.)	
)	
_____)	CASO NO.
)	2025-00096
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

M&M Contractors, Inc. (M&M Contractors) 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 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

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 M&M Contractors 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 M&M Contractors 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. M&M Contractors 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. M&M Contractors comparecerá el 24 de julio 2025, 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 24 de julio 2025 se llevará a cabo por videoconferencia.

4. M&M Contractors deberá asistir a la audiencia utilizando el siguiente enlace:

https://teams.microsoft.com/join/19%3ameeting_M2Q4ZDM3ZjQtZTc3ZS00YzBiLTgwMDUtODU2ZTVhNTViNTk4%40thread.v2/0?context=%7b%22id%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. M&M Contractors notificará a la Comisión, al menos diez días antes de la audiencia, si M&M Contractors 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 55525, 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

Vice Presidente

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. 2025-00096 FECHADO

DIECHIOCHO PÁGINAS A SEGUIR

*Adam McKee
M&M Contractors, Inc
2072 Glade Lane
Lexington, KY 40513