

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FOUNDATION SOLUTION OF NORTHERN)	
KENTUCKY, LLC)	
_____)	CASE NO.
)	2024-00055
ALLEGED VIOLATION OF UNDERGROUND)	
FACILITY DAMAGE PREVENTION ACT)	

INITIATING ORDER FOR ALLEGED 811 VIOLATION OF THE KENTUCKY
UNDERGROUND FACILITY DAMAGE PREVENTION ACT

(Se proporciona la traducción al español de este documento como anexo/apéndice C.)

Foundation Solution of Northern Kentucky, LLC (Foundation Solution) 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 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 Foundation Solution 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 Foundation Solution 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. Foundation Solution 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. Foundation Solution 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. Foundation Solution 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. Foundation Solution shall notify the Commission at least ten days prior to the hearing if Foundation Solution 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.

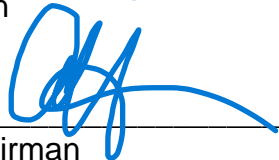
8. The Staff Incident Report 54643, attached to this Order as Appendix A, is made a part of the record in this case.


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



ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2024-00055 DATED MAR 13 2024

TWENTY-FIVE PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Eric Tout **Incident ID** 54643 **Investigation** 11002
Incident Date 4/6/2022 12:40:00 PM **Report Submitted** 5/12/2022

Operator Information

Operator Duke Energy Kentucky, Inc. **Reported By** Tony Smith
Phone (859) 578-9898 **Email** tyler.shelton@duke-energy.com

Incident Location 29 Levassor Ave **Locate Ticket Number** NO TICKET
Covington KY 41014
29 Levassor Ave
County Kenton

Excavator Information

Excavator Wayne Terry **Organization ID** 0756598
Foundation Solution of Northern
Kentucky, L.L.C.
Phone 859-878-6443 **Email**
Address 3513 Latonia Ave **Locate Ticket Number** NO TICKET
Covington KY 41015

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/Excavator	\$0.00	\$0.00

The Operator reports that the Excavator damaged a gas service, with an excavator and failed to contact 811. A Legal Notice of Gas Line Damage was set to the Excavator.

The DR and Notice are included as Attachment 1.

INVESTIGATION

On 01/09/24, The Operator, Duke's Tyler Shelton, provided the following documents:

- Damage Investigation Findings w/ Photographs: The Findings are outlined in the DR Summary & Attachment 1. The Photographs depict the incident location with no markings visible.
- Invoice: Indicating the Operator billed the Excavator \$1,668.44 for the damage repair and per Mr. Shelton it has not been paid.

Duke's documents are included as Attachment 2.

A Past Due Notice was sent to the Excavator with a due date of 02/22/24.

The Notice is included as Attachment 3.

On 01/24/24, Wayne Terry of Foundation Solution of Northern Kentucky stated the markings were off, but was unable to state how far. When Staff asked if the markings were within or outside the tolerance zone Mr. Terry responded "what's that"? Staff explained the tolerance zone of 24-inches and Mr. Terry stated that it was outside, but could not state how far. Staff then explained that the issue with this incident is no call was made to 811 and Mr. Terry stated a call was made. Staff requested a valid Locate Ticket (LT) and Mr. Terry stated that was two years ago. Staff informed Mr. Terry to obtain a valid LT he could research 811's web site. Mr. Terry stated he received no Notice Letters and request the letters be emailed to fsofnky@yahoo.com.

PIPELINE DAMAGE INVESTIGATION REPORT

The email to Mr. Terry is include as Attachment 4.

On 01/31/24, Staff conducted a search of One Call Concepts' (811's) records from 02/01/22 thru 04/07/22 and found no LT for the Excavator for the incident location of 29 Levassor Ave., Covington KY.

On 02/07/24 Administrative Assistant Megan Bradford noted in IRS that the Legal Notice of Gas Line Damage Letter sent to 3513 Latonia Ave was returned, vacant. Ms. Bradford stated that the web site address for the business is listed as 2431 Alexandria Pike Highland Heights, KY 41076.

On 02/12/24 Ms. Bradford sent the Past Due Notice to 2431 Alexandria Pike Highland Heights, KY 41076 with the original due date of 02/22/24 due to contact being made on 01/24/24.

The Notice is included as Attachment 5.

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	04/06/22	04/07/23

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 5/12/2022 Incident ID: 54643

[Set back to Edit](#)

[Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=54643\)](#)

Reported By:

Name: Tony Smith
Phone: (859) 578-9898
Email: tyler.shelton@duke-energy.com

Gas Line Incident Occured:

Date: 4/6/2022
Time: 12:40 PM

Details:

Reported Date: 5/12/2022 10:54 AM

Incident Location Address:

Location: 29 Levassor Ave
Address: 29 Levassor Ave
City: Covington
State: KY
County: Kenton
Zip: 41014
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.: NO TICKET

Excavator: Contractor

Excavator Address:

First Name: Wayne

Last Name: Terry

Organization ID:

Company: Foundation Solution of Northern Kentucky

Phone: 8598786443

Email:

Address: 3513 Latonia Ave

City: Covington

State: KY

Zip: 41015

Confirm Code:

Excavation Damage: One Call notification practices not sufficient

Description of Incident No notification to the one call center

Summary Information

5/12/2022

It has been determined that, on 04/07/2022, Foundation Solutions of Northern KY was operating an excavator at 29 Levassor Ave, Covington, KY 41014. Foundation Solutions of Northern KY failed to notify the One Call Center. In the state of KY, each contractor must have their own locate ticket. In doing so, they struck an underground gas service line in front of the residence.

Full details such as the cause	
Extent of the damage	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

December 21, 2023

Foundation Solution of Northern Kentucky
3513 Latonia Ave.
Covington, KY 41015

Re: Violation of Kentucky Underground Facility Damage Prevention
Act Incident Number: **54643**

LEGAL NOTICE OF GAS LINE DAMAGE

Dear Foundation Solution of Northern Kentucky:

The Kentucky Public Service Commission (Commission) received the attached report on May 12, 2022, regarding damage by Foundation Solution of N. KY 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 **April 6, 2022**, Foundation Solution of N. KY violated the Underground Facilities Damage Prevention Act at 29 Levassor Ave., Covington, KY 41014 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 Foundation Solution of N. KY within the past 365 days.
2. The statutory provision that Foundation Solution of N. KY 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:** Foundation Solution of N. KY 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 Foundation Solution of N. KY 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 Foundation Solution of N. KY does not wish to dispute the alleged violation, Foundation Solution of N. KY 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 Foundation Solution of N. KY's first alleged violation of the Act, Foundation Solution of N. KY 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: **54643** and assigned key: **11002** 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**

Please include the Incident Number 54643 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.

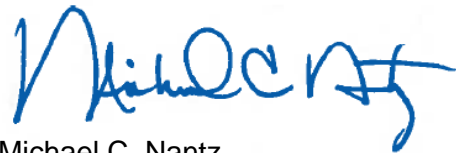
ADMINISTRATIVE PROCEEDING

If Foundation Solution of N. KY 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 Foundation Solution of N. KY of responsibility for the damage, the Commission will institute an administrative proceeding against Foundation Solution of N. KY.

The Administrative Proceeding will include a formal hearing in front of the Commission, during which Foundation Solution of N. KY 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 Foundation Solution of N. KY 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 Jessica Norris-Canfield the attorney representing the Division of Inspections at 502-791-0493 or jnorriscanfield@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: Tuesday, January 9, 2024 11:10 AM
To: Tout, Eric V (PSC)
Subject: RE: [EXTERNAL] 54643, 4/6/2022, 29 Levassor Ave., Covington, Foundation Solution of Northern Kentucky
Attachments: 484344 - Claim Support Package - 29 Levassor.pdf

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

This Message Originated from Outside the Organization

This Message Is From an External Sender.

Report Suspicious

Hello Eric,

The excavator did not ever compensate us for hitting our line. Support package attached.

Thanks

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Tuesday, January 9, 2024 7:59 AM
To: Shelton, Tyler <Tyler.Shelton@duke-energy.com>
Subject: [EXTERNAL] 54643, 4/6/2022, 29 Levassor Ave., Covington, Foundation Solution of Northern Kentucky

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

Hello Tyler,

Please send repots, photos pre & post, invoices and payment info (copy of check) if paid.

*Thanks,
Eric V. Tout
Kentucky Public Services Commission*

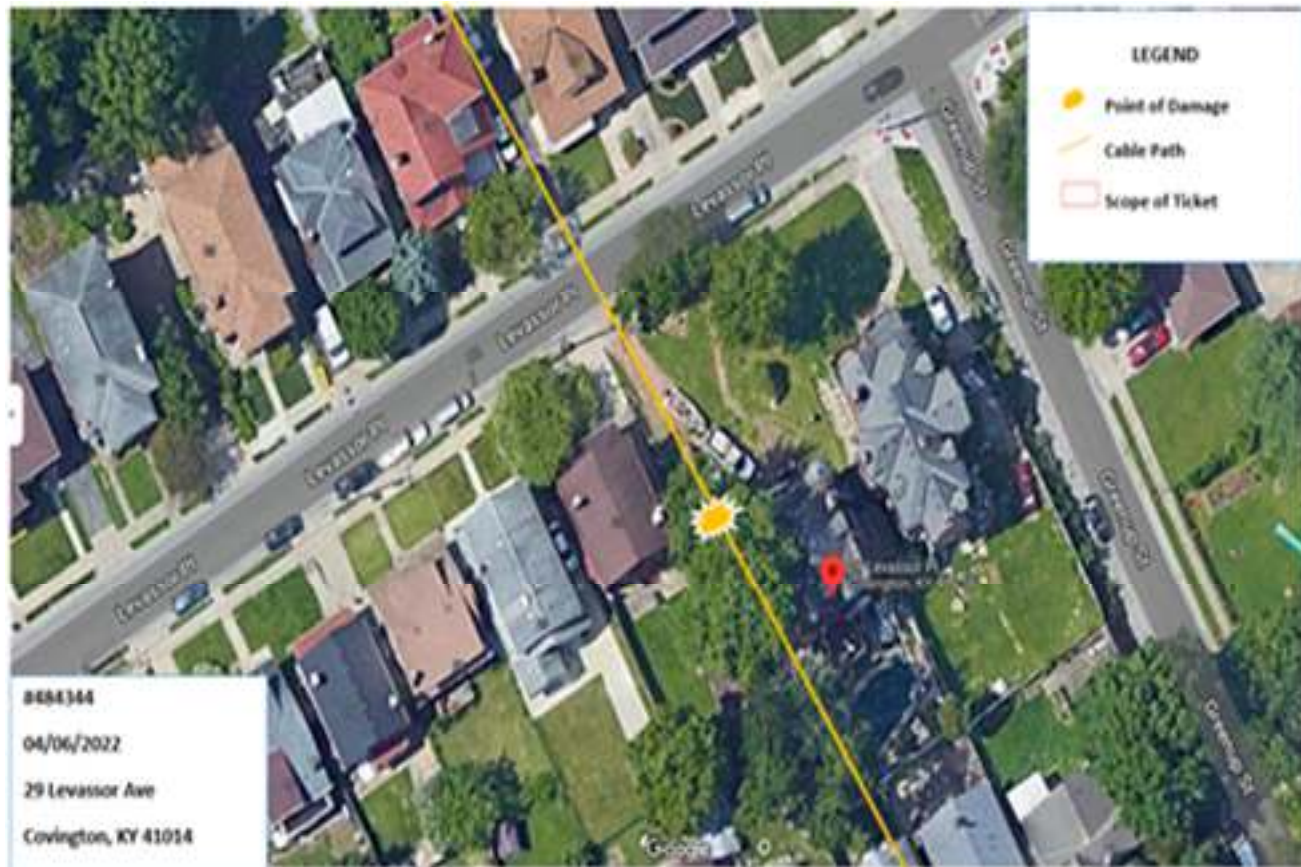
Division of Inspections / Damage Prevention
211 Sower Blvd., Frankfort, KY 40601
Office: 502-782-2622
Fax: 502-564-1582

Damage Investigation Findings

PRG CLAIM:	DK-484344	
DATE OF OUTAGE:	04/06/2022	12:40 PM
NOTIFICATION:	04/06/2022	12:54 PM
ARRIVAL:	04/06/2022	01:51 PM
LOCATION:	29 Levassor Ave , Covington, KY 41014	
LOCATE TICKET:	NONE	
INVESTIGATOR:	Isaak Davis	

SUMMARY

On Wednesday, April 6, 2022, I was notified by Duke Energy about damage at 29 Levassor Ave , Covington, KY 41014. Duke Energy's Underground Facilities were damaged at the above stated location by a Excavator .



STATEMENTS

Per Wayne Terry of Foundation Solutions of Northern KY, he stated that they did not have a dig ticket. Foundation Solutions of Northern KY hit the gas line with an excavator. They were restructuring the foundation to this old house. He advised that he was working closely with Duke Energy. Wayne stated that the gas line was supposed to be moved out of the way by Duke Energy so that they could finish the corner in which the gas line was close to on the house. The house could not get evaluated and approved until they finished fixing that corner of the house and got the gas line moved. Wayne advised that the gas line was supposed to be moved by Duke Energy.

DETERMINATION

It has been determined that, on 04/07/2022, Foundation Solutions of Northern KY was operating an excavator at 29 Levassor Ave, Covington, KY 41014. Foundation Solutions of Northern KY failed to notify the One Call Center. In the state of KY, each contractor must have their own locate ticket. In doing so, they struck an underground gas service line in front of the residence.

Law(s): **KRS 367.4911**

Excavator or person responsible for excavation to notify operator of work schedule -- Responsibilities of excavator. (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. Excavator or person responsible for excavation to notify operator of work schedule -- Responsibilities of excavator.



ROOT CAUSE

In closing of this investigation, I have concluded that Foundation Solutions Northern KY, is responsible for all damages that occurred at this location and is liable for any monies owed to Duke Energy, care of PRG for repairs and replacements.



484344 - Investigator1.jpeg



484344 - Investigator2.jpeg



484344 - Investigator3.jpeg



484344 - Investigator4.jpeg



484344 - Investigator5.jpeg



484344 - Investigator6.jpeg



484344 - Investigator7.jpeg



484344 - Investigator8.jpeg



484344 - Investigator9.jpeg



484344 - Investigator10.jpeg



484344 - Investigator11.jpeg



484344 - Investigator12.jpeg



484344 - Investigator13.jpeg



484344 - Investigator14.jpeg



484344 - Investigator15.jpeg



484344 - Locate Damage1.jpg





484344 - Locate Damage2.jpg



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-484344 Date: May 18, 2022 Terms: Due Upon Receipt Conf. Code # 2SNPH Bank: BOK Financial Account #: 5892990000037 Routing: 102000607 Remit Email: accounting@prgconsulting.net
--	--

Responsible for Damages: Foundation Solutions of Northern KY 3513 Latonia Ave Covington, KY 41015

Date & Address Where Damage Occurred: 4/6/2022 29 Levassor Ave Covington, KY 41014

<u>Labor and Materials Costs:</u>		<u>Units</u>	<u>Unit Rate</u>	<u>Amount</u>
<i>Internal Labor Costs</i>				
	Mechanic Operator I	4.00	85.19	\$340.76
	Mechanic Iii - C&M (12049)	2.50	38.02	\$95.05
	Service Mechanic B	2.00	75.78	\$151.56
	Supervisor	1.05	101.34	\$106.41
	Emergency Call Out	1.00	250.00	\$250.00
	Digger Derrick / Line Truck	4.00	32.53	\$130.12
	Srw Utility, Stake, Flat 4X4	2.00	19.23	\$38.45
	Damage Investigation/Quality Control	1.00		\$334.00
	Sub-Total			\$1,446.35
<i>Material Costs</i>				
	Adapter, Tube To Pipe, 1-1/4" Tube, Comp,	1.00	94.74	\$94.74
	Coupling, Pipe, 1-1/4" Nps X 3/4" Nps, Thd, I	1.00	5.71	\$5.71
	Adapter, Tube To Pipe, 1" Cts Tube, Comp,	1.00	52.22	\$52.22
	Pipe, 1" Cts, 250' Lg, Plain Ends, Extruded,	2.00	0.56	\$1.12
	Coupling; Pipe; 1" Cts; Stab; 125 Lb; Pe; Ast	1.00	7.96	\$7.96
	Sub-Total			\$161.75
<i>Loss of Gas</i>				
	Sub-Total			\$60.34
Invoice Total				\$1,668.44 =====

Please Make Check Payable to: Project Resources Group

For questions regarding this invoice, please contact: George Tumen, (720) 500-9649 or via email please contact: gtumen@prgconsulting.net

Attachment 3



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

January 23, 2024

Foundation Solution of Northern Kentucky
3513 Latonia Ave.
Covington, KY 41015

Re: Violation of Kentucky Underground Facility Damage Prevention
Act Incident Number: **54643**

Past Due Notice

Dear Foundation Solution of Northern Kentucky:

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 Foundation Solution of Northern Kentucky 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 Foundation Solution of Northern Kentucky of responsibility for the damage, the Commission will institute an administrative proceeding against Foundation Solution of Northern Kentucky. 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 notice or if you find that this penalty has already been paid, please contact Eric Tout, Division of Inspections, at ericv.tout@ky.gov or 502-782-2622.

Sincerely,

Michael C. Nantz
Director, Division of Inspections

Attachment

Attachment 4

Tout, Eric V (PSC)

From: Tout, Eric V (PSC)
Sent: Wednesday, January 24, 2024 10:52 AM
To: fsofnky@yahoo.com
Subject: 54643, 4/6/2022, 29 Levassor Ave., Covington, Duke Energy Kentucky
Attachments: Attach 1- LN & DR-54643.pdf; Attach 3- PD_Foundation Solution of N KY_54643.pdf

Hello Mr. Terry,

As requested see attached. Duke Energy reports that Foundation Solution of Northern Kentucky damaged a gas service, with an excavator and failed to contact 811. To resolve this matter provide a valid Locate Ticket (LT) that is within 21 days of the incident date of 04/06/22, obtained by Foundation Solution of Northern Kentucky and for the incident location of 29 Levassor Ave., Covington, KY 41014. If no valid LT is available follow the instructions on the Legal Notice of Gas Line Damage under the heading Response Required For Resolution.

*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*



**SAFETY IS IN YOUR HANDS.
EVERY DIG. EVERY TIME.**

NOTICE OF CONFIDENTIALITY

This e-mail, including any attachments, is intended only for the use of the individual or entity to which it is addressed and may contain confidential information that is legally privileged and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are notified that any review, use, disclosure, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please contact the sender by reply e-mail and destroy all copies of the original message.

Attachment 5



Andy Beshear
Governor

Rebecca W. Goodman
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
psc.ky.gov

Kent A. Chandler
Chairman

Angie Hatton
Vice Chairman

Mary Pat Regan
Commissioner

January 23, 2024

Foundation Solution of Northern Kentucky
2431 Alexandria Pike
Highland Heights, KY 41076

Re: Violation of Kentucky Underground Facility Damage Prevention
Act Incident Number: **54643**

Past Due Notice

Dear Foundation Solution of Northern Kentucky:

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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 notice or if you find that this penalty has already been paid, please contact Eric 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. 2024-00055 DATED MAR 13 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. 2024-00055 DATED MAR 13 2024

EIGHT PAGES TO FOLLOW

ESTADO DE KENTUCKY
ANTE LA COMISIÓN DE SERVICIOS PÚBLICOS

Concerniente:

FOUNDATION SOLUTION OF NORTHERN)
KENTUCKY, LLC)
)
_____))
PRESUNTA INFRACCIÓN DE LA LEY DE)
PREVENCIÓN DE DAÑOS EN INSTALACIONES)
SUBTERRÁNEAS)

CASO NO.
2024-00055

ORDEN DE INICIACIÓN POR LA PRESUNTA INFRACCIÓN DE TIPO 811 DE LA LEY
DE PREVENCIÓN DE DAÑOS EN INSTALACIONES SUBTERRÁNEAS DE
KENTUCKY

Foundation Solution of Northern Kentucky, LLC (Foundation Solution) 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 Foundation Solution 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 Foundation Solution 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. Foundation Solution 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. Foundation Solution 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. Foundation Solution 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. Foundation Solution notificará a la Comisión, al menos diez días antes de la audiencia, si Foundation Solution 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 54643, 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. 2024-00055 FECHADO

VEINTICINCO PÁGINAS A SEGUIR

APÉNDICE B

APÉNDICE DE UNA ORDEN DE LA COMISIÓN DE SERVICIOS PÚBLICOS DE KENTUCKY EN EL CASO No. 2024-00055 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.

FOUNDATION SOLUTION OF NORTHERN
2431 Alexandria Pike
Highland Heights, KENTUCKY 41076