

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|----------------------------------|---|------------|
| M AND N FABRICATION, LLC |) | |
| |) | |
| _____ |) | CASE NO. |
| |) | 2022-00175 |
| ALLEGED VIOLATION OF UNDERGROUND |) | |
| FACILITY DAMAGE PREVENTION ACT |) | |

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

M and N Fabrication, LLC (M and N Fabrication) 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 29, 2022.

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 the third and any subsequent offense. Additionally, any person whose violation of the Act

¹ KRS 367.4901 through KRS 367.4917.

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 and N Fabrication 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 M and N Fabrication 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 and N Fabrication 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 and N Fabrication shall appear on July 29, 2022, 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 July 29, 2022 hearing shall be conducted via video conferencing.
4. M and N Fabrication shall attend the hearing by using the following link: <https://global.gotomeeting.com/join/308551245>; information and instructions are attached to this Order as Appendix B.
5. M and N Fabrication shall notify the Commission at least ten days prior to the hearing if M and N Fabrication 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 43337, attached to this Order as Appendix A, is made a part of the record in this case.
9. The July 29, 2022 hearing shall be recorded by video only.
10. **Please note that notice of a hearing to be held in this matter will be mailed to M and N Fabrication once proof of service is received by the Commission. Parties who fail to appear after service will be subject to entry of a default judgment against them.**

PUBLIC SERVICE COMMISSION



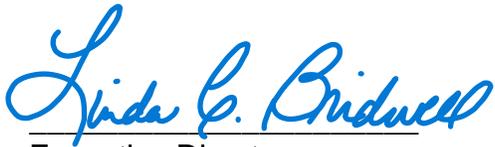
Chairman

Vice Chairman

Commissioner



ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00175 DATED JUN 16 2022

TEN PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Eric Tout **Incident ID** 43337 **Investigation** 8355
Incident Date 12/30/2020 3:35:00 PM **Report Submitted** 1/15/2021

Operator Information

Operator Delta Natural Gas Company, Inc. **Reported By** Craig Mitchell
Phone 859-744-6171 Ext. 1124 **Email** cmitchell@deltagas.com

Incident Location 331 Northway Dr **Locate Ticket Number**
 Berea KY 40403
 331 Northway Dr.
County Madison

Excavator Information

Excavator Michael Raines **Organization ID** 0959251
 M&N Fabrication, LLC
Phone 606-215-9015 **Email** mandn8112245@gmail.com
Address 514 Garden Ct **Locate Ticket Number**
 Simpsonville KY 40067

Damage Report (DR) Summary

| Excavation Within 18" (Approximate Location) | Gas Or Hazardous Liquids | | Type Of Equipment Used | Cost of Damage | Amount Billed |
|---|--------------------------|----------|------------------------|----------------|---------------|
| | Contained | Released | | | |
| No call to 811 | Yes | Yes | Non-mechanized/Shovel | \$37.00 | \$0.00 |

The Operator reports that the Excavator damaged a ¾ inch gas service with a shovel replacing an existing deck and failed to contact the KY Contact Center (811).

The DR is included as Attachment 1.

INVESTIGATION

On 02/01/22 Michael Raines of M&N Fabrication stated he could not remember this incident and was not sure M&N Fabrication was at this incident location on the incident date. Mr. Raines referred calls to Alyssa Raines (606-215-0146), whom would have the records.

On 02/01/22 811, April Butler, searched from 01/01/20 thru 12/31/21 and found one LT that was obtained 12/31/20 by the Excavator, the day after the incident date.

The LT is included as Attachment 2.

On 02/01/22 Ms. Raines stated that no call was made to 811. Ms. Raines was receptive to attending the Damage Prevention Course and paying the reduced penalty of \$250.00.

VIOLATIONS

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.

of Offences

(Including this incident)

PIPELINE DAMAGE INVESTIGATION REPORT

| Excavator | Last Offence Incident # | Last Offence Incident Date | Revert to 1st Offence Date (Last Offence Date +365 Days) |
|------------------|--------------------------------|-----------------------------------|---|
| 1 st | N/A | N/A | N/A |

Attachment 1

Gas Excavation Damage Report

Delta Natural Gas Company, Inc.

Submitted 1/15/2021 Incident ID: 43337

[Set back to Edit](#)

[Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=43337\)](#)

Reported By:

Name: Craig Mitchell
Phone: 859-744-6171 Ext. 1124
Email: cmitchell@deltagas.com

Gas Line Incident Occured:

Date: 12/30/2020
Time: 3:35 PM

Details:

Reported Date: 1/14/2021 1:14 PM

Incident Location Address:

Location: 331 Northway Dr.
Address: 331 Northway Dr
City: Berea
State: KY
County: Madison
Zip: 40403
Confirm Code: Y

Number of Customers out: 1

Was gas or hazardous liquids contained in the underground facility?

Was gas or hazardous liquids released into the atmosphere? *

3/2020

Locate Request Ticket No.:

Excavator: Contractor

Excavator Address:

First Name: Michael
Last Name: Raines
Organization ID: 0959251
Company: M&N Fabrication, LLC
Phone: 606-215-9015
Email: mandn8112245@gmail.com

Address: 514 Garden Ct
City: Simpsonville
State: KY
Zip: 40067
Confirm Code: Y
Excavation Damage: No notification made to the One Call Center

Description of Incident Mr. Michael Raines with M & N Fabrication was hand digging with a shovel while replacing an existing deck when he inadvertently hit and punctured an existing 3/4" plastic natural gas service line.

Summary Information

1/15/2021

Full details such as the cause Michael Raines did not contact KY-811 or Delta Natural Gas to request a line location prior to beginning his excavation activities to replace an existing deck and therefore he did not know the location of the existing 3/4" plastic natural gas service line which ultimate led to Mr. Raines inadvertently puncturing the existing line as he hand dug with a shovel.

Extent of the damage There were no injuries or property damage attributed to this event. Delta employees replaced 2 feet of 3/4" plastic service line and reconnected the line with the installation of (2) 3/4" permasert couplings before re-energizing the service line and returning it to service. The existing service line was equipped with an excess flow valve (EFV) and thus there was only a minimal amount of gas released into the atmosphere.

Cost of the damage \$37.00

Steps taken to prevent re-occurrence Michael Raines was informed that anyone that is going to do any type of excavation work is required by law to call KY-811 and request a line location at least two days prior to beginning the work and thus avoid damage to the gas line.

Amount billed to excavator \$0.00

Attachment 2

Tout, Eric V (PSC)

From: Ticket Research <ticketresearch2@usa811.org>
Sent: Tuesday, February 1, 2022 12:03 PM
To: Tout, Eric V (PSC)
Cc: PSCrequest@kentucky811.org
Subject: Re: 43337
Attachments: 2012310475.pdf

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

Hello,

Attached is a copy of the requested ticket. We searched between 1/1/2020-12/31/2021. If you have any questions, please don't hesitate to contact us and we will be happy to assist you.

Thank you,
April Butler, *Member Services*

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

Know what's below. 811 before you dig.

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

On Tue, Feb 1, 2022 at 11:30 AM Tout, Eric V (PSC) <ericv.tout@ky.gov> wrote:

Please provide locate ticket for:

Incident Date: 12/30/2020

Operator: Delta

Incident Location: 331 Northway Dr., Berea

County: Madison

Excavator: M&N Fabrication

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

NORMAL NOTICE

Ticket : 2012310475 Date: 12/31/2020 Time: 11:30 Oper: JCOONEY Chan:000

State: KY Cnty: MADISON City: BEREA
Subdivision:

Address : 331
Street : NORTHWAY DR
Cross 1 : AUTUMN CT
Location: LOCATE THE REAR OF PROPERTY
:
Boundary: n 37.593549 s 37.591972 w -84.264570 e -84.260061

Work type : REPLACING A DECK
Done for : MOLLY HAIL
Start date: 01/06/2021 Time: 07:00 Hours notice: 139/48 Priority: NORM
Ug/Oh/Both: U Blasting: NO Emergency: N
Duration : N/A Depth: 2 FEET

Company : M AND N FABRICATION Type: CONT
Co addr : 514 GARDEN COURT
City : SIMPSONVILLE State: KY Zip: 40067
Caller : ALYSSA RAINES Phone: (502)418-1008
Contact : ALYSSA RAINES - OFFICE Phone:
Mobile : (502)418-1008
Email : MANDN8112245@GMAIL.COM

Submitted date: 12/31/2020 Time: 11:30
Members: 0023 0277 0387 0702 WINKY

* Responses are current as of 02/01/2022 11:54 AM

| <u>Service Area</u> | <u>Utility Type(s)</u> | <u>Customer Service Contact</u> | <u>Positive Response</u> |
|--|------------------------|---|---|
| TIME WARNER CABLE 0023 | COMMUNICATIONS | TIME WARNER CABLE CUSTOMER SERVICE (800) 892-2253 | Clear - No conflict |
| DELTA NATURAL GAS COMPANY 0277 | PIPELINE | | Marked - Underground facilities are in conflict. |
| BLUE GRASS ENERGY 0387 | ELECTRIC | | |
| SOUTHERN MADISON WATER DISTRICT 0702 | WATER | | |
| WINDSTREAM KENTUCKY INC WINKY | TELEPHONE | | |

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00175 DATED JUN 16 2022

TWO PAGES TO FOLLOW

Information and Instructions for Hearing

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

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

Please direct any questions to Ashley Rhodes, Commission Division of Inspections. AshleyB.Rhodes@ky.gov or 502-782-2578.

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://global.gotomeeting.com/join/308551245>

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

*M and N Fabrication, LLC
514 Garden Ct.
Simpsonville, KENTUCKY 40067