

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PHILLIPS WATERPROOFING AND CONCRETE)	
)	
_____)	CASE NO.
)	2023-00304
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.)

Phillips Waterproofing and Concrete 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 October 27, 2023.

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 Phillips Waterproofing and Concrete for violation of the following provision of the Act:

KRS 367.4911(10) – When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds prima facie evidence that Phillips Waterproofing and Concrete 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. Phillips Waterproofing and Concrete 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. Phillips Waterproofing and Concrete shall appear on October 27, 2023, 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 October 27, 2023 hearing shall be conducted via video conferencing.

4. Phillips Waterproofing and Concrete 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. Phillips Waterproofing and Concrete shall notify the Commission at least ten days prior to the hearing if Phillips Waterproofing and Concrete 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 54333, attached to this Order as Appendix A, is made a part of the record in this case.

9. The October 27, 2023 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

by KAC w/permission

Commissioner



ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00304 DATED SEP 20 2023

FORTY-EIGHT PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Eric Tout **Incident ID** 54333 **Investigation** 8385
Incident Date 12/7/2021 11:05:00 AM **Report Submitted** 1/5/2022

Operator Information

Operator Louisville Gas and Electric Company (LG&E) **Reported By** Mike Jones
Phone (502) 364-8281 **Email** Mike.Jones@lge-KU.com

Incident Location 410 Lynwood Ave **Locate Ticket Number** 2112020448
 Vine Grove KY 40175

County Hardin

Excavator Information

Excavator Terry Crady **Organization ID**
 Phillips Waterproofing and Concrete
Phone 502-963-2314 **Email**
Address 175 Rainbow Dr **Locate Ticket Number** 2112020448
 Columbia KY 42728

Damage Report (DR) Summary

Excavation Within 18" (Approximate Location)	Gas Or Hazardous Liquids		Type Of Equipment Used	Cost of Damage	Amount Billed
	Contained	Released			
Yes	Yes	Yes	Mechanized/Not Specified	\$470.00	\$0.00

The Operator reports that the Excavator damaged a properly marked ½ inch gas service with excavating equipment. More specifically, the Operator states that an employee on site claimed he hit the service with a pick-ax, but signs of digging in the trench with mechanized equipment were apparent and the service was pulled apart indicating it was damaged with excavating equipment.

The DR is included as Attachment 1.

Locate Ticket (LT) Summary

Ticket #	Valid	Initial Date	ExpirationDate (21 calendar days from initial date)	Incident Date	# of Days Expired	Within Scope of Excavation
2112020448	Yes	12/02/21	12/23/21	12/07/21	0	Yes

The LT is included as Attachment 2.

INVESTIGATION

On 02/01/22 the Operator, LG&E's Mike Jones, stated that the Excavator has not been bill for the damage repair. Mr. Jones provided the following documents:

- Facts-Based Investigation & Incident Field Investigative Report: Which have been outlined in Attachment 1 and the DR Summary.
- 31 Photographs: Depicting the incident location which support the allegation that mechanized equipment was utilized within 18 inches of the facility, teeth marks on the excavation wall and damage consistent with the pipe being pulled.

LG&E's documents are included as Attachment 3.

PIPELINE DAMAGE INVESTIGATION REPORT

On 02/02/22 the Excavator, Phillips Waterproofing and Concrete's Kevin Phillips stated that the service looped out from the gas meter and this service was marked incorrectly, 21-28 inches. Mr. Phillips stated that he discussed the angles the photographs were taken with the LG&E damage investigator and felt the photographs did not represent the approximate location/"tolerance zone" of 18 inches, therefore he took photographs disputing LG&E's photographs and he would provide said photographs. Mr. Phillips requested that this incident be emailed to eastfirman@gmail.com for review.

On 02/03/22 a follow up call to confirmed receipt of the email was made and a voice message was left.

On 02/08/22 a follow up call was made to Mr. Phillips at 502-963-2314 resulted in a message stating the voice mailbox is full.

VIOLATIONS

KRS 367.4911 (10) When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

of Offences

(Including this incident)

Excavator	Last Offence Incident #	Last Offence Incident Date	Revert to 1st Offence Date (Last Offence Date +366 Days)
3 rd or Subsequent	53846	07/09/21	07/10/22

Attachment 1

Gas Excavation Damage Report

Louisville Gas and Electric Company

Submitted 1/5/2022 Incident ID: 54333

[Set back to Edit](#)[Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=54333\)](#)

Reported By:

Name: Mike Jones
Phone: (502) 364-8281
Email: Mike.Jones@lge-KU.com

Gas Line Incident Occured:

Date: 12/7/2021
Time: 11:05 AM

Details:

Reported Date: 1/5/2022 3:02 PM

Incident Location Address:

Location:
Address: 410 Lynwood Ave
City: Vine Grove
State: KY
County: Hardin
Zip: 40175
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.: 2112020448

Excavator: Contractor

Excavator Address:

First Name: Terry
Last Name: Crady
Organization ID:
Company: Kevin Phillips Waterproofing
Phone: 502-963-2314
Email:

Address: 175 Rainbow Dr
City: Columbia
State: KY
Zip: 42728
Confirm Code: Y
Excavation Damage: Failure to use hand tools where required

Description of Incident ?Excavator damaged service digging mechanically in tolerance zone.

Summary Information

1/5/2022

Full details such as the cause Contractor damaged accurately marked .5 inch plastic customer service. At first, the employee on site claimed that he hit the service with a pick-ax, but signs of the excavator digging in the trench and the way the service was pulled apart indicated it was damaged with excavating equipment.
Extent of the damage Broken 1/2" plastic gas service
Cost of the damage \$470.00
Steps taken to prevent re-occurrence Advised contractor to hand dig within tolerance of marks and gas risers.
Amount billed to excavator \$0.00

Attachment 2

NORMAL NOTICE

Ticket : 2112020448 Date: 12/02/2021 Time: 08:47 Oper: KENTUCKY811 Chan:000

State: KY Cnty: HARDIN City: VINE GROVE
Subdivision:

Address : 410

Street : LYNWOOD AVE

Cross 1 : CEDARCREST DR

Location: WHEN FACING PROPERTY FROM THE DIG STREET LOCATE THE LEFT SIDE OF
PROPERTY AND REAR OF PROPERTY

:

Boundary: n 37.816627 s 37.815071 w -85.990643 e -85.988880

Work type : FOUNDATION WATERPROOFING

Done for : KENNETH CRETEN

Start date: 12/06/2021 Time: 09:00 Hours notice: 96/48 Priority: NORM

Ug/Oh/Both: U Blasting: NO Emergency: N

Duration : N/A Depth: 6 FT

Company : PHILLIPS WATERPROOFING Type: CONT

Co addr : 175 RAINBOW DR

City : COLUMBIA State: KY Zip: 42728

Caller : APRIL GOFF Phone: (502)963-2314

Contact : KEVIN PHILLIPS - OFFICE Phone:

Mobile : (502)963-2314

Email : PHILLIPSWATERPROOFING@GMAIL.COM

Submitted date: 12/02/2021 Time: 08:47

Members: 0002 0069

* Responses are current as of 01/25/2022 10:24 AM

<u>Service Area</u>	<u>Utility Type(s)</u>	<u>Customer Service Contact</u>	<u>Positive Response</u>
LOUISVILLE GAS AND ELECTRIC 0002	ELECTRIC, GAS	LOUISVILLE GAS AND ELECTRIC CUSTOMER SERVICE (502) 589-1444	
NOLIN RURAL ELECTRIC COOP CORP 0069	ELECTRIC		Clear - No conflict

Attachment 3

Tout, Eric V (PSC)

From: Jones, Mike (Auburndale) <Mike.Jones@lge-ku.com>
Sent: Tuesday, February 1, 2022 12:24 PM
To: Tout, Eric V (PSC)
Subject: RE: 54333, 12/7/2021, 410 Lynwood Ave. Vine Grove, Phillips Waterproofing and Concrete
Attachments: Yellow report 410 Lynwood.pdf; digitix_attachments_1643735813.zip; DigTix_Incident_Report.pdf

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

See attached. This one has not been billed or collected.

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Tuesday, February 01, 2022 7:16 AM
To: Jones, Mike (Auburndale) <Mike.Jones@lge-ku.com>
Subject: 54333, 12/7/2021, 410 Lynwood Ave. Vine Grove, Phillips Waterproofing and Concrete

EXTERNAL email. STOP and THINK before responding, clicking on links, or opening attachments.

Hello Mike,

Please send repots, photos, 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

----- The information contained in this transmission is intended only for the person or entity to which it is directly addressed or copied. It may contain material of confidential and/or private nature. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is not allowed. If you received this message and the information contained therein by error, please contact the sender and delete the material from your/any storage medium.



Facts-Based Investigation

Internal Claim ID: INC-20211207-002 Customer Claim ID: _____
Site Investigator: Tracy Reesor Notified At: 12/07/21 12:09:00
Notified By: Gas Operations Dispatch 5025891444
Damage Location: 410 Lynwood Ave Vine Grove KY 40175
Incident Time: 12/07/21 11:00:00

Original Locate Request: 2112020448 Assigned Locator: ELM Locating
Locate Request Due: 12/06/21 08:48:56 Locate Request Completed: 12/02/21 15:00:15
Photos Taken Before Damage? N
Photos Taken of Damage Site? Y

Type and Size of Damaged Utility: Natural Gas Service/Drop 0.5
Depth: 18" to < 36" (0.5 to < 1m)
Description and Extent of Damage: Contractor damaged accurately marked .5 inch plastic customer service. At first, employee on site claimed that he hit the service with a pick-ax but signs of the excavator digging in the trench and the way the service was pulled apart indicated it was damaged with excavating equipment. Marks were barely within tolerance as service looped hard behind the riser. LG&E crews found that the tracer wire was 12" away from gas line where it made the hard loop.

Equipment Used: Backhoe/Trackhoe
Excavation Company Name: PHILLIPS WATERPROOFING
Company Address: 8880 S Preston Hwy, Lebanon Junction, KY 40150
Phone: 5029632314 Contact Name: KEVIN PHILLIPS
Working For: _____
Repair Company: LG&E
Personal Injury: N 3rd Party Property Damage: N Evacuations: N Other: N

Impact Comments: _____
Was Locate requested?: Y Locate Request Completed?: Y
Locate Accurate (Within Tolerance Zone): Y If No, Distance Markings Off: N/A
Marks Visible at Time of Damage: Y Damage Within Scope of Ticket: Y



Facts-Based Investigation

Repair Contact Name: Lucas Ballentine Phone: _____

Repair Comments: Dale Doolin

Witness: _____ Phone: _____

Comments: _____

Witness: _____ Phone: _____

Comments: _____

Root Cause Explanation: _____

Responsible Party: Phillips Waterproofing

Responsible Party Comments: Kevin Phillips on site agreed marks were within tolerance

Date of Investigation: 12/07/21 Investigation Time (Hours): _____

Site Investigator's Name: Tracy Reesor Phone: 5022694079

Site Investigator's Signature: Tracy Reesor Date: 12/10/2021

Damage Status: Excavation Issue

Cause Code: Failure to use hand tools within tolerance zone

Damage Claims Manager: _____



Facts-Based Investigation



NOTE: Only 12 most recent photos shown. To view all 31 attachments, please view the ticket within DigTix.

LOUISVILLE GAS & ELECTRIC COMPANY
INCIDENT FIELD INVESTIGATION REPORT

DTS# 2022010405
PROJECT# 0M01ST447
TASK# OF
R/C# VENTYX#

DAMAGE TO LG&E FACILITIES

DATE OF INCIDENT Dec - 7, 2021
ADDRESS/LOCATION OF DAMAGE 410 Lynwood Uinc Grove Ky. 40175
TIME DISPATCHED 11:05 AM PM TIME OF COMPLETION 12:20 AM PM
WHO CAUSED DAMAGE? Kevin Phillips water proofing
(NAME OF CONTRACTOR, UTILITY, INDIVIDUAL, ETC.)
ADDRESS OF PARTY CAUSING DAMAGE 175 Rainbow Dr. Columbia Ky. 40728
(STREET) (CITY) (STATE) (ZIP CODE)

PHONE NUMBER OF PARTY CAUSING DAMAGE (502) 963-2314
WAS PARTY CAUSING DAMAGE STILL ON THE JOB? YES NO
IF YES, WHO WAS IN CHARGE? Terry Crady
IF NO, HOW DID YOU OBTAIN NAME OF PARTY CAUSING DAMAGE?
WHAT WAS DAMAGED? (CIRCLE) - COMPANY MAIN - COMPANY SERVICE - CUSTOMER SERVICE
OTHER
WHAT TYPE OF WORK WAS BEING PERFORMED? Ceiling Abasement wall
PARTY'S EXPLANATION FOR DAMAGE Hit with a pick while digging out basement wall
WHAT REPAIRS WERE MADE? Repair cust. service
ANY ADDITIONAL WORK TO BE PERFORMED? YES / NO
IF YES, BY WHOM?

POSSIBLE DAMAGE TO OTHERS

DATE OF INCIDENT _____ TIME _____ AM / PM
LOCATION OF INCIDENT _____
WHAT WAS DAMAGED? _____
DESCRIPTION OF DAMAGE _____
WHAT WAS LG&E DOING AT THIS LOCATION? _____
OWNER OF PROPERTY _____ PHONE # (____)
OWNER'S ADDRESS _____
(STREET) (CITY) (STATE) (ZIP CODE)
WHO WAS DAMAGE REPORTED TO? (CIRCLE) GAS DISPATCH / SUPERVISOR / OTHER _____
WAS AN LG&E CONTRACTOR NOTIFIED? Y / N IF YES, NAME OF CONTRACTOR _____
WERE PHOTOS TAKEN? Y / N IF YES, WHO CAN THESE PHOTOS BE OBTAINED FROM? _____
IS LG&E OR AN LG&E CONTRACTOR RESPONSIBLE FOR THE DAMAGE? Y / N
IF A CONTRACTOR WHO: _____
WERE THERE ANY INJURIES? YES / NO IF YES, NAME OF INJURED PARTY _____
WAS LG&E DAMAGE INVESTIGATOR CONTACTED? YES / NO IF YES, BY WHOM _____

BUD INFORMATION

BUD NUMBER AND REQUESTING PARTY'S NAME 2112020448 - Kenneth Craden
WERE FACILITIES MARKED? YES / NO DID EXCAVATOR AGREE? YES / NO
IF YES, WERE FACILITIES PROPERLY MARKED? YES / NO DID EXCAVATOR AGREE? YES / NO
IF NO, HOW WERE THEY MISMATCHED? (BE SPECIFIC) _____
contractor said locate was off a little at meter location
WAS LINE LOCATING CONTRACTOR ON THE JOB? YES / NO

December - 7, 2021
DATE OF REPORT _____
[Signature]
SIGNATURE OF EMPLOYEE _____
2730
EMP # _____
APPROVED _____ DATE _____

PUT ANY ADDITIONAL COMMENTS ON BACK

COMMENTS

While digging out basement to repair water leak in basement wall, contractor hit gas line next meter location

CREW PERSONNEL	EMP. #	STRAIGHT TIME	OVERTIME	DOUBLE TIME	TRUCK #	EQUIPMENT (CIRCLE)
Lucas Druen	28534	2-hr			8102	BACKHOE / KUBOTA
Dale Dookin	2730	1-hr			8305	BACKHOE / KUBOTA
Travis Corbett	29189	2-hr			4930	BACKHOE / KUBOTA
						BACKHOE / KUBOTA
						BACKHOE / KUBOTA
						BACKHOE / KUBOTA
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						BACKHOE / KUBOTA

MATERIAL USED

	MATERIAL	IIN#
6	FT PIPE PE 2406: ½" IPS	1170051
	FT PIPE PE 2406: 1" CTS	1170078
	FT PIPE PE 2406: 1 ¼" IPS	0434843
	FT PIPE PE 2406: 2" IPS	0459060
	FT PIPE PE 2406: 4" IPS	0395160
2	EA ½" IPS PERMASERT COUPLING	0394943
	EA 1" CTS PERMASERT COUPLING	0394935
	EA 2" IPS ELECTROFUSION CPL	0394894
	EA 4" IPS ELECTROFUSION CPL	0394901
	EA 1" PREFAB METERLOOP W/ REG.	0532951
	EA FLEX RISER 1" MALE BY ½" IPS	0530927
	EA FLEX RISER 1" MALE BY 1" CTS	0530935
	EA FARM TAP (W/O REGULATOR)	ARM WR 5695012
	EA FARM TAP REGULATOR (FISCHER 627 WITH 1/8" DIAMETER ORIFICE)	



2021-12-07 12:16:08











2021-12-07 12:18:00





2021-12-07 12:21:45





2021-12-07 12:21:53



2021-12-07 12:22:01



2021-12-07 12:22:04



2021-12-07 12:22:16



2021-12-07 12:22:19

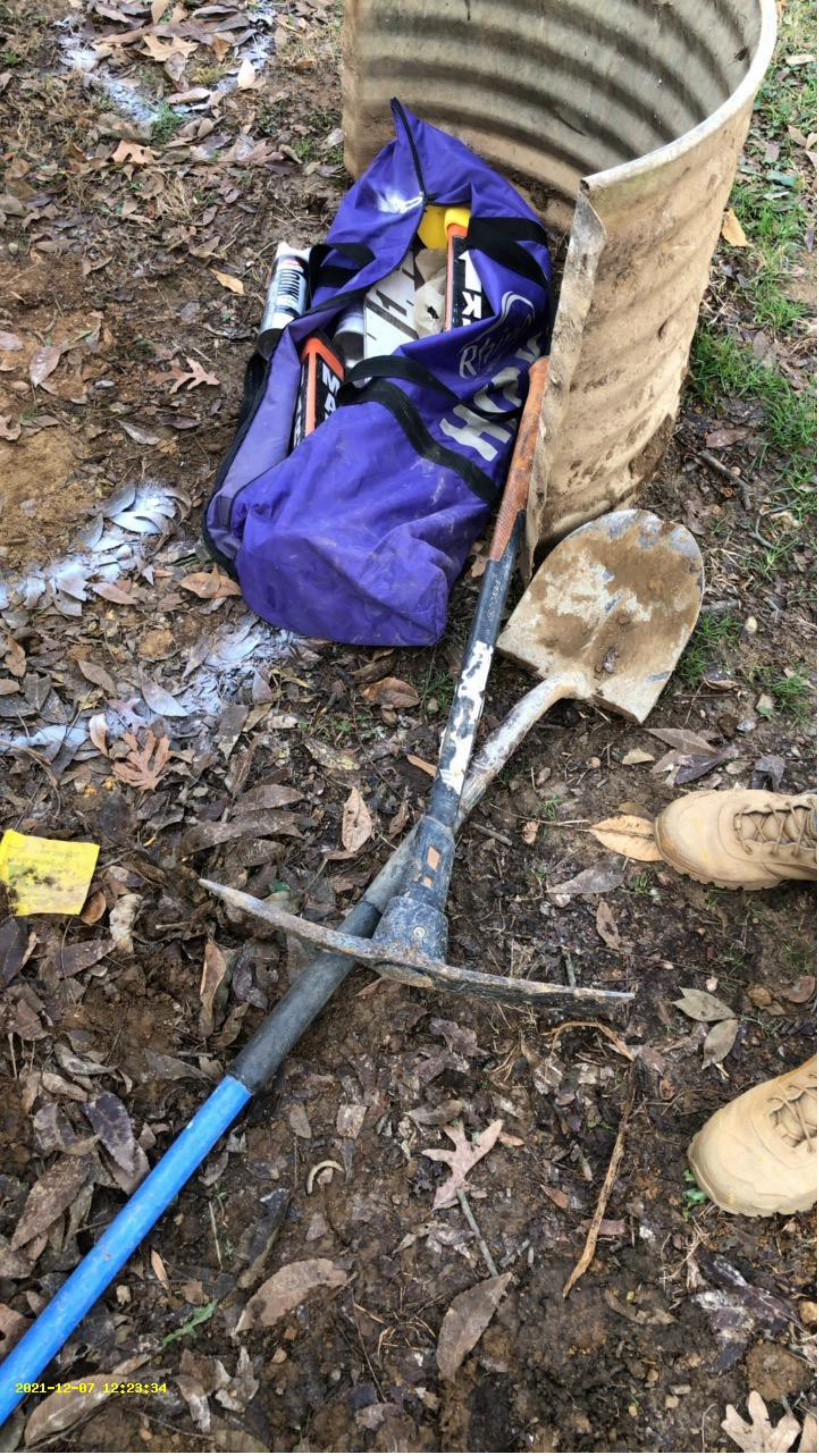








2021-12-07 12:23:28













2021-12-07 12:24:50









2021-12-07 12:37:46



2021-12-07 12:38:48







2023-12-07 12:54:28

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00304 DATED SEP 20 2023

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

ESTADO DE KENTUCKY
ANTE LA COMISIÓN DE SERVICIOS PÚBLICOS

Concerniente:

PHILLIPS WATERPROOFING AND CONCRETE)	
_____)	
PRESUNTA INFRACCIÓN DE LA LEY DE)	CASO NO.
PREVENCIÓN DE DAÑOS EN INSTALACIONES)	2023-00304
SUBTERRÁNEAS)	

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

Phillips Waterproofing and Concrete (Phillips Waterproofing and Concrete) 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 October 27, 2023.

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 Phillips Waterproofing and Concrete 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 Phillips Waterproofing and Concrete 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. Phillips Waterproofing and Concrete 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. Phillips Waterproofing and Concrete comparecerá el October 27, 2023, a las 9 a.m. Eastern Daylight Time, 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 October 27, 2023 se llevará a cabo por videoconferencia.

4. Phillips Waterproofing and Concrete 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. Phillips Waterproofing and Concrete notificará a la Comisión, al menos diez días antes de la audiencia, si Phillips Waterproofing and Concrete 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 54333, que se adjunta a esta Orden como Apéndice A, forma parte del expediente de este caso.

9. La audiencia October 27, 2023 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. 2023-00304 FECHADO

CUARENTA Y OCHO PÁGINAS A SEGUIR

APÉNDICE B

APÉNDICE DE UNA ORDEN DE LA COMISIÓN DE SERVICIOS PÚBLICOS DE KENTUCKY EN EL CASO No. 2023-00304 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.

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