

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

RICHARDSON EXCAVATING	)	
	)	
_____	)	CASE NO.
	)	2023-00406
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.)

Richardson Excavating has been named as a party to an investigation before the Kentucky Public Service Commission (Commission) for allegedly violating the Kentucky Underground Facility Damage Prevention Act (Act).<sup>1</sup> A hearing in this case shall take place on January 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

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<sup>1</sup> KRS 367.4901 through KRS 367.4917.

the third and any subsequent offense. Additionally, any person whose violation of the Act results in damage to an underground facility containing any flammable, toxic, corrosive, or hazardous material or results in the release of any flammable, toxic, corrosive, or hazardous material is subject to an additional penalty of up to \$1,000.

Following receipt of a report of excavation damage to its underground gas pipeline from an operator, Commission Staff (Staff) conducted an investigation and prepared an Incident Report, a copy of which is attached to this Order as Appendix A. In its Incident Report, Staff cites Richardson Excavating for violation of the following provision of the Act:

KRS 367.4911(6) The excavator shall protect and preserve temporary underground facility markers until the scheduled excavation or demolition is completed.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds prima facie evidence that Richardson Excavating 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. Richardson Excavating shall submit to the Commission, via email sent to [PSCED@ky.gov](mailto:PSCED@ky.gov) with the case number of this proceeding in the subject line of the message, a written response to the allegations contained in the Staff Incident Report within 20 days of receipt of this Order.

2. Richardson Excavating shall appear on January 26, 2024, at 9 a.m. Eastern Standard 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 January 26, 2024 hearing shall be conducted via video conferencing.
4. Richardson Excavating 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. Richardson Excavating shall notify the Commission at least ten days prior to the hearing if Richardson Excavating 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 54332, attached to this Order as Appendix A, is made a part of the record in this case.
9. The January 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

ENTERED  
DEC 20 2023 bsb  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2023-00406 DATED DEC 20 2023

SIX PAGES TO FOLLOW

# Gas Excavation Damage Report

## Atmos Energy Corporation

Submitted 2/3/2022 Incident ID: 54332

[Set back to Edit](#)

[Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=54332\)](#)

### Reported By:

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**Name:** Jonathon Bledsoe  
**Phone:** (270) 925-6312  
**Email:** jonathon.bledsoe@atmosenergy.com

### Gas Line Incident Occured:

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**Date:** 1/4/2022  
**Time:** 9:00 AM

### Details:

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**Reported Date:** 1/5/2022 9:42 AM

### Incident Location Address:

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**Location:** 656 Cherry Blossum Bowling Green  
**Address:** 656 Cherry Blossom Rd  
**City:** Bowling Green  
**State:** KY  
**County:** Warren  
**Zip:** 42103  
**Confirm Code:** Y

**Number of Customers out:** 0

**Was gas or hazardous liquids contained in the underground facility?**

**Was gas or hazardous liquids released into the atmosphere?**

**Locate Request Ticket No.:** 2112211193

**Excavator:** Contractor

## Excavator Address:

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**First Name:** Nathan

**Last Name:** Richardson

**Organization ID:**

**Company:** Richardson Excavating

**Phone:** 270-670-4695

**Email:**

**Address:** 15 Powell Cemetery Rd

**City:** Glasgow

**State:** KY

**Zip:** 42141

**Confirm Code:** Y

**Excavation Damage:** Failure to maintain marks

**Description of Incident** Richardson Plumbing damaged a 3/4" PE service with a mini excavator. Locate valid and marked. Marks had been covered by other construction. No injuries.

## Summary Information

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2/3/2022

<b>Full details such as the cause</b>	Richardson Plumbing damaged a 3/4" PE service while installing utilities. A Locate request was made but a neighboring concrete crew had dumped gravel and dirt on top of some of the marks. Marks were present leading into and out of the area up to the piles. Measurements were unable to be taken due the piles of dirt and rocks that covered the marks.
<b>Extent of the damage</b>	3/4" PE service repaired.
<b>Cost of the damage</b>	\$496.00
<b>Steps taken to prevent re-occurrence</b>	Richardson Plumbing was billed for the repairs.
<b>Amount billed to excavator</b>	\$496.00





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

August 22, 2023

Nathan Richardson  
Richardson Excavating  
15 Powell Cemetery Rd.  
Glasgow, KY 42141

Re: Violation of Kentucky Underground Facility Damage Prevention  
Act Incident Number: **54332**

### **LEGAL NOTICE OF GAS LINE DAMAGE**

Dear Mr. Richardson:

The Kentucky Public Service Commission (Commission) received the attached report on February 3, 2022, regarding damage by Nathan Richardson doing business as Richardson Excavating to a natural gas facility owned and/or operated by the Atmos Energy Corporation. The Gas Excavation Damage Report (Damage Report) from Atmos Energy Corporation indicates that on January 4, 2022, Mr. Richardson violated the Underground Facilities Damage Prevention Act at 656 Cherry Blossom Rd., Bowling Green, KY 42103 by failing protect and preserve the temporary locate markings.

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 Mr. Richardson within the past 365 days.

2. The statutory provision that Mr. Richardson is alleged to have violated is:

KRS 367.4911(6) The excavator shall protect and preserve temporary underground facility markers until the scheduled excavation or demolition is completed.

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:** Mr. Richardson has the right to dispute the allegations made by Atmos Energy Corporation. 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 502-782-2622, or [ericv.tout@ky.gov](mailto:ericv.tout@ky.gov) prior to paying the civil penalty.

2. **Penalty Payment:** This incident may be resolved by Mr. Richardson 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 Mr. Richardson does not wish to dispute the alleged violation, Mr. Richardson should submit payment, within 30 days of the date of this letter, in the amount of \$1,250.00.

3. **Training:** If this letter indicates this is Mr. Richardson's first alleged violation of the Act, Mr. Richardson should contact Andrea Bramblett, Division of Inspections, at [andrea.bramblett@ky.gov](mailto:andrea.bramblett@ky.gov), or (502) 782-2656 to arrange 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.*

If the excavator would like to pay via electronic payment, please contact Andrea Bramblett at [andrea.bramblett@ky.gov](mailto:andrea.bramblett@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 54332 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 Mr. Richardson 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 Mr. Richardson of responsibility for the damage, the Commission will institute an administrative proceeding against Mr. Richardson.

The Administrative Proceeding will include a formal hearing in front of the Commission, during which Mr. Richardson will have the opportunity to present evidence, call witnesses, and cross examine witnesses called by the Division of Inspections. Failure to participate in these

August 17, 2023

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proceedings may result in a default judgement against Mr. Richardson 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 the attorney representing Division of Inspections at 502-791-0493 or [jnorriganfield@ky.gov](mailto:jnorriganfield@ky.gov).

Sincerely,



Michael Nantz  
Division Director

Attachment

## APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2023-00406 DATED DEC 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](mailto: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](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 3<sup>rd</sup> 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. 2023-00406 DATED DEC 20 2023

EIGHT PAGES TO FOLLOW

ESTADO DE KENTUCKY  
ANTE LA COMISIÓN DE SERVICIOS PÚBLICOS

Concerniente:

RICHARDSON EXCAVATING	)	
	)	
_____	)	CASO NO.
	)	2023-00406
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

Richardson Excavating ha sido implicado como parte de una investigación ante la Comisión de Servicios Públicos de Kentucky (Comisión) por la presunta infracción de la Ley de Prevención de Daños a Instalaciones Subterráneas de Kentucky (la Ley).<sup>2</sup> Una audiencia sobre este caso tendrá lugar el 26 de enero 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 de la Ley está sujeta a la imposición de una sanción civil por un importe de 250 dólares

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<sup>2</sup> KRS 367.4901 a KRS 367.4917.

por la primera infracción, no más de 1,000 dólares por la segunda infracción en el plazo de un año, y no más de 3,000 dólares por la tercera infracción y las siguientes. Además, cualquier persona cuya infracción de la ley provoque daños en una instalación subterránea que contenga cualquier material inflamable, tóxico, corrosivo o peligroso, o que provoque la liberación de cualquier material inflamable, tóxico, corrosivo o peligroso, está sujeta a una sanción adicional de hasta 1,000 dólares.

Tras recibir un informe de daños por excavación en su gasoducto subterráneo por parte de un operador, el personal de la Comisión (el Personal) llevó a cabo una investigación y preparó un Informe de Incidentes, cuya copia se adjunta a esta Orden como Apéndice A. En su Informe de Incidentes, el Personal cita a Richardson Excavating por la infracción de la siguiente disposición de la Ley:

KRS 367.4911(6) (6) El excavador deberá proteger y preservar los marcadores temporales de las instalaciones subterráneas hasta que se complete la excavación o demolición programadas.

Basándose en su revisión del Informe de Incidentes y estando suficientemente informada, la Comisión encuentra pruebas prima facie de que Richardson Excavating 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. Richardson Excavating deberá presentar a la Comisión una respuesta por escrito a las alegaciones contenidas en el Informe de Incidencia del Personal en un plazo de 20 días a partir de la recepción de esta Orden a través de un correo electrónico enviado a [PSCED@ky.gov](mailto:PSCED@ky.gov) con el número de caso de este procedimiento en el asunto del mensaje.



2. Richardson Excavating comparecerá el 26 de enero de 2024, a las 9 a.m. hora estándar 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 enero de 2024 se llevará a cabo por videoconferencia.

4. Richardson Excavating 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. Richardson Excavating notificará a la Comisión, al menos diez días antes de la audiencia, si Richardson Excavating 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 54332, que se adjunta a esta Orden como Apéndice A, forma parte del expediente de este caso.

9. La audiencia 26 de enero 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. 2023-00406 FECHADO

SEIS PÁGINAS A SEGUIR

## APÉNDICE B

### APÉNDICE DE UNA ORDEN DE LA COMISIÓN DE SERVICIOS PÚBLICOS DE KENTUCKY EN EL CASO No. 2023-00406 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](mailto: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](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.

Nathan Richardson  
RICHARDSON EXCAVATING  
15 Powell Cemetery Road  
Glasgow, KENTUCKY 42141