

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SCOTT MCNABB	)	
	)	
_____	)	CASE NO.
	)	2024-00235
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.)

Scott McNabb (Mr. McNabb) 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 October 25, 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 Mr. McNabb 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 Mr. McNabb 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. Mr. McNabb 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. Mr. McNabb shall appear on October 25, 2024, at 9 a.m. Eastern Daylight Time, in the Richard Raff Hearing Room at the Commission's offices at 211 Sower

Boulevard in Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violation of the Underground Facility Damage Prevention Act.

3. The October 25, 2024 hearing shall be conducted via video conferencing.

4. Mr. McNabb 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. Mr. McNabb shall notify the Commission at least ten days prior to the hearing if Mr. McNabb 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 54507, attached to this Order as Appendix A, is made a part of the record in this case.


9. The October 25, 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  
AUG 15 2024  
rCS  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
\_\_\_\_\_  
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2024-00235 DATED AUG 15 2024

NINETEEN PAGES TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

**Investigator** Eric Tout **Incident ID** 54507 **Investigation** 10818  
**Incident Date** 3/15/2022 1:50:00 PM **Report Submitted** 3/24/2022

## Operator Information

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

**Incident Location** 1952 Oldham Rd  
Mount Sterling KY 40353  
1952 Oldham Road  
**County** Montgomery **Locate Ticket Number**

## Excavator Information

**Excavator** Scott McNabb **Organization ID**  
Independent Contractor  
**Phone** 606-548-0332 **Email**  
**Address** 181 Winding Way **Locate Ticket Number**  
Owingsville KY 40360

## 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	Mechanized/Mini Excavator	\$282.00	\$0.00

The Operator reports that the Excavator damaged a two-inch gas main with a mini excavator installing sewer and failed to contact 811. A Legal notice of Gas Line Damage was sent to the Excavator.

**The DR & Notice are included as Attachment 1.**

## INVESTIGATION

On 11/17/23 the Operator, Delta's Robert Nellipowitz, stated that Delta did not bill the Excavator for the damage repair and Mr. Nellipowitz provided the following documents.

- Third Party Damage & Leak Reports: Outlined in the DR Summary & Attachment 1.
- Two Photographs: Depicting the incident location.

**Delta's documents are included as Attachment 2.**

A Past Due Notice was sent to the Excavator with a due date of 12/28/23.

**The Notice is include as Attachment 3.**

On 12/07/23, the Excavator, Scott McNabb, stated that no call was made to 811 prior to excavation. Mr. McNabb was receptive to attending the Damage Prevention Course and paying the reduced penalty of \$250.00. Mr. McNabb acknowledge he received both Notice Letters and has not made time to respond.

On 01/08/23, a representative attend the Damage Prevention Course.

# PIPELINE DAMAGE INVESTIGATION REPORT

## VIOLATIONS<sup>1</sup>

**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)

<b>Excavator</b>	<b>Last Offence Incident #</b>	<b>Last Offence Incident Date</b>	<b>Revert to 1<sup>st</sup> Offence Date</b> (Last Offence Date +366 Days)
1 <sup>st</sup>	See above	03/15/22	03/16/23

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<sup>1</sup> 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

## Delta Natural Gas Company, Inc.

Submitted 3/24/2022 Incident ID: 54507

[Set back to Edit](#)

[Staff Edit](#)

[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=54507\)](#)

### Reported By:

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**Name:** Craig Mitchell  
**Phone:** (859) 744-6171  
**Email:** cmitchell@deltagas.com

### Gas Line Incident Occured:

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**Date:** 3/15/2022  
**Time:** 1:50 PM

### Details:

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**Reported Date:** 3/23/2022 9:04 AM

#### Incident Location Address:

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**Location:** 1952 Oldham Road  
**Address:** 1952 Oldham Rd  
**City:** Mount Sterling  
**State:** KY  
**County:** Montgomery  
**Zip:** 40353  
**Confirm Code:** Y

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.:

Excavator: Contractor

## Excavator Address:

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**First Name:** Scott  
**Last Name:** McNabb  
**Organization ID:**  
**Company:** Independent Contractor  
**Phone:** 606-548-0332  
**Email:**  
**Address:** 181 Winding Way  
**City:** Owingsville  
**State:** KY  
**Zip:** 40360  
**Confirm Code:** Y

**Excavation Damage:** No notification made to the One Call Center

**Description of Incident** Scott McNabb (Independent Contractor) was using a mini-excavator to dig a ditch for the installation of a new sewer line when he inadvertently hit and punctured an existing 2" plastic natural gas main line.

## Summary Information

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3/24/2022

<b>Full details such as the cause</b>	Scott McNabb did not contact KY-811 or Delta Natural Gas to request a line locate prior to the commencement of his excavation activities to dig a ditch with a mini-excavator for the installation of a new sewer line. As a result, Mr. McNabb was not aware of the location of Delta's existing 2" plastic natural gas main line piping which ultimately led to Mr. McNabb hitting and puncturing the natural gas line, thus resulting in the release of natural gas from the pipeline and the loss of service to (5) natural gas customers.
<b>Extent of the damage</b>	There were no injuries or property damage attributed to this incident. Delta employees replaced 3 feet of 2" plastic main line piping and installed (2) 2" electrofusion couplings, (2) wire lugs, and 5 feet of tracer wire in order to reconnect the main line piping before re-energizing the line for normal operation and relighting the customers that had been impacted by the event.
<b>Cost of the damage</b>	\$282.00
<b>Steps taken to prevent re-occurrence</b>	Scott McNabb was informed of the KY-811 dig law practices and that by law, it is a requirement that KY-811 be notified to request a line location at least "(2) full working days" prior to the commencement of any excavation activities.
<b>Amount billed to excavator</b>	\$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

October 24, 2023

Scott McNabb  
181 Winding Way  
Owingsville, KY 40360

Re: Violation of Kentucky Underground Facility Damage Prevention  
Act Incident Number: **54507**

### LEGAL NOTICE OF GAS LINE DAMAGE

Dear Mr. McNabb:

The Kentucky Public Service Commission (Commission) received the attached report on March 24, 2022, regarding damage by Scott McNabb doing business as Scott McNabb to a natural gas facility owned and/or operated by the Delta Natural Gas Company, Inc. The Gas Excavation Damage Report (Damage Report) from Delta Natural Gas Company, Inc. indicates that on **March 15, 2022**, Mr. McNabb violated the Underground Facilities Damage Prevention Act at 1952 Oldham Rd., Mount Sterling, KY 40353 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 Mr. McNabb within the past 365 days.

2. The statutory provision that Mr. McNabb 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:** Mr. McNabb has the right to dispute the allegations made by Delta Natural Gas Company, 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](mailto:ericv.tout@ky.gov) or 502-782-2622, prior to paying the civil penalty.

2. **Penalty Payment:** This incident may be resolved by Mr. McNabb 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. McNabb does not wish to dispute the alleged violation, Mr. McNabb 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 Mr. McNabb's first alleged violation of the Act, Mr. McNabb 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: **54507** and assigned key: **10818** 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](mailto: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 54507 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. McNabb 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. McNabb of responsibility for the damage, the Commission will institute an administrative proceeding against Mr. McNabb.

The Administrative Proceeding will include a formal hearing in front of the Commission, during which Mr. McNabb 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 Mr. McNabb 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 C. Nantz  
Director, Division of Inspections

Attachment

# Attachment 2

## Tout, Eric V (PSC)

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**From:** Nellipowitz, Robert <rnellipowitz@deltagas.com>  
**Sent:** Friday, November 17, 2023 1:40 PM  
**To:** Tout, Eric V (PSC)  
**Subject:** RE: [EXTERNAL] 54507, 3/15/2022, 1952 Oldham Rd., Mount Sterling, Scott McNabb  
**Attachments:** Incident 54507 20220315 1952 Oldham Road Mount Sterlin - Scott McNabb.pdf

**\*\*CAUTION\*\* PDF attachments may contain links to malicious sites. Please contact the COT Service Desk [ServiceCorrespondence@ky.gov](mailto:ServiceCorrespondence@ky.gov) for any assistance.**

### This Message Originated from Outside the Organization

This Message Is From an External Sender.

Report Suspicious

Eric,

Please find attached to this email the information Delta has for this incident; we chose not to bill for this damage.

Let me know if you have any further questions or concerns.

*Thanks,*

**Robert Nellipowitz**

State Engineer



**Delta Natural Gas Company, Inc.**

3617 Lexington Road

Winchester, Kentucky 40391

**Email:** [rnellipowitz@deltagas.com](mailto:rnellipowitz@deltagas.com)

**Office:** 859-744-6171, Ext. 6134

**Mobile:** 859-338-8384

[www.deltagas.com](http://www.deltagas.com)





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**From:** Tout, Eric V (PSC) <ericv.tout@ky.gov>  
**Sent:** Monday, November 13, 2023 2:44 PM  
**To:** Nellipowitz, Robert <rnellipowitz@deltagas.com>  
**Subject:** [EXTERNAL] 54507, 3/15/2022, 1952 Oldham Rd., Mount Sterling, Scott McNabb

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

**This Message Is From an External Sender**

This message came from outside your organization.

Hello Robert,

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*

This electronic mail transmission is for the use of the named individual or entity to which it is directed and may contain information that is privileged or confidential. It is not to be copied or forwarded to any unauthorized persons. If you have received this electronic mail transmission in error, delete it from your system without copying or forwarding it, and notify the sender of the error by replying via email, so that our address record can be corrected.

### THIRD PARTY DAMAGE REPORT

Date of Damage: 03 15 2022 Time of Damage: 01 50  AM  PM  
M M / D D / Y Y Y Y 0 0 : 0 0

Address/Location of Damage: 1952 Oldham Rd

City: Camargo County: Montgomery

- Excavator Type:  Home Owner  
 Contractor  
 Utility  
 State Agency  
 Municipality

10.75" To Man. Junction 2-way  
Feed Pt.  
= +/- 2360'

Excavator Name: Scott McNabb Phone Number: 606-548-0332

Company Name (if applicable): \_\_\_\_\_

Address: 181 Winding Way E-mail Address: \_\_\_\_\_

City: Owingsville State: Ky Zip: 40360

Company Contact: \_\_\_\_\_ Company Phone Number: \_\_\_\_\_

Did Excavator Call 811?  Yes  No Did Excavator Contact Delta Directly?  Yes  No

811 Ticket Number: \_\_\_\_\_ Delta Ticket Number: \_\_\_\_\_

Attach a copy of the 811 Locate Request and a copy of Delta's Locate Request, if applicable

Details, Excavation Equipment Used and Cause of Damage: Contractor was using  
an excavator to lay sewer line. While crossing our line  
he broke the 2" Ady/A

Number of Customers Affected: 5

Extent of Injuries and Property Damage: N/A

Steps Taken to Prevent Reoccurrence: Told to call 811

- Reason for Damage:
- One-Call Notification Practices Not Sufficient
  - Facility Marking or Location Not Sufficient
  - Other Insufficient Excavation Practices
  - No Notification Made to One-Call Center
  - Wrong Information Provided to One-Call Center
  - Facility Could Not Be Found or Located
  - Facility Was Not Located or Marked
  - Incorrect Facility Maps
  - Failure to Maintain Marks
  - Failure to Support Exposed Facilities
  - Failure to Use Hand Tools Where Required
  - Failure to Test-Hole (Pot-Hole)
  - Improper Backfilling Practices
  - Failure to Maintain Clearance
  - One-Call Center Error
  - Abandoned Facility
  - Deteriorated Facility
  - Previous Damage
  - Data Not Collected
  - Other (Explain): \_\_\_\_\_

Damaged Pipeline:  Punctured  Completely Severed Leak Report Number: 1934

Pipe Size: 2" Pipe Type:  Plastic  Steel Map Sheet Number: 252-172

Facility Type:  Transmission  Distribution  Service Line  Main

If service line, was an excess flow valve installed on the line?  Yes  No

Operating Pressure at Time of Damage: 22 psi Type Feed:  One-Way  Two-Way

Duration from time of notification until flow stopped (not necessarily repaired): 10 min

Total Labor Required to Make Repairs: 6 Hours 2 per service man

Materials Used to Make Repairs: 3' of 2" + 2, 2" E.F. Couplings.  
2 Wire logs + 5' of #12 Wire

Do you want to bill for this incident?  Yes  No

Danell Baker  
 District Manager

3-17-2022  
 Date



### LEAK REPORT

White/System/LOS  
Yellow/Central/NR  
Pink/Pending/Until Repaired

Uprating  
Copy/Work Order File/LOS

Date Discovered: 3-15-22 Resurvey Date(s): 3-20-22

Leak Class:  1  2  3 Facility Classification:  Distribution Main  Gathering Line  
 Service Line  Transmission Line  
 Meter Installation  Regulator Station

Submitted By: Josh Vandiver

Leak Location: 1752 Oldham Rd

Map Sheet Number: 250-172 GPS Latitude: 38.205200  
VIP Pipeline Designation: \_\_\_\_\_ Longitude: -85.706101

How Discovered:  Leak Survey  Patrol  Other - Explain: Heard - get house

Date Repaired: 3-15-22 Repaired By: James T. Josh V.

Cause of Leak: **Corrosion**  Atmospheric  External  Internal  
(Send Pipe Sample to Director-Technical Services)

**Incorrect Operations**  Human Error  Ineffective Procedures

**Other Outside Force**  External Loading  Fire/Explosion  Vandalism  Vehicle  Other - Explain: \_\_\_\_\_

**Natural Forces**  Earthquake  Earth/Rock Movement  Flood  Frost Heave  Landslide  Lightning  Subsidence  Tornado  Washout  Other \_\_\_\_\_

**Equipment**  Excess Flow Valve  Filter  Flow/Pressure Controller  Heater  Meter Casing  Odorizer  Regulator/Relief Valve  Thread  Valve  Other - Explain: \_\_\_\_\_

**Material and Welds**  Directional Fitting  Flange  Mechanical Fitting  Pipe  Plastic Fusion Coupling  Plastic to Plastic Compression Coupling  Plastic to Steel Transition  Screw Fitting  Tap Tee  Workmanship Defect  Other - Explain: \_\_\_\_\_

**Brittleness - Crack/Split** (Send Pipe Sample to Manager-Construction)

**Excavation** Name of Excavator: Scott McGeis  
Result of Previous Damage:  Yes  No

**Other - Explain:** \_\_\_\_\_

Pipe Size: 2" Pipe Condition:  Good  Fair  Poor

Pipe Type: Plastic:  Aldyl A  Plexco  PE 2406  Other Steel:  Threaded  Welded

Cathodically Protected:  Yes  No Cathodic Protection P/S Reading: \_\_\_\_\_

Type of Coating:  Bare  Millwrap  Plastic X-Tru Coat  Thin Film  
(Steel Only)  Other - Explain: \_\_\_\_\_

Coating Condition:  Satisfactory  Unsatisfactory Year Pipe Installed: 1970

Steel Pipe Condition Report Number: \_\_\_\_\_ Original Work Order Number: 50-70-16

Repair Method:  Replaced  Leak Clamp  Other - Explain: \_\_\_\_\_

Test Method:  Leak (Fittings)  Pressure \_\_\_\_\_ Psig \_\_\_\_\_ Duration \_\_\_\_\_  
(Reinstated Service Lines Only)

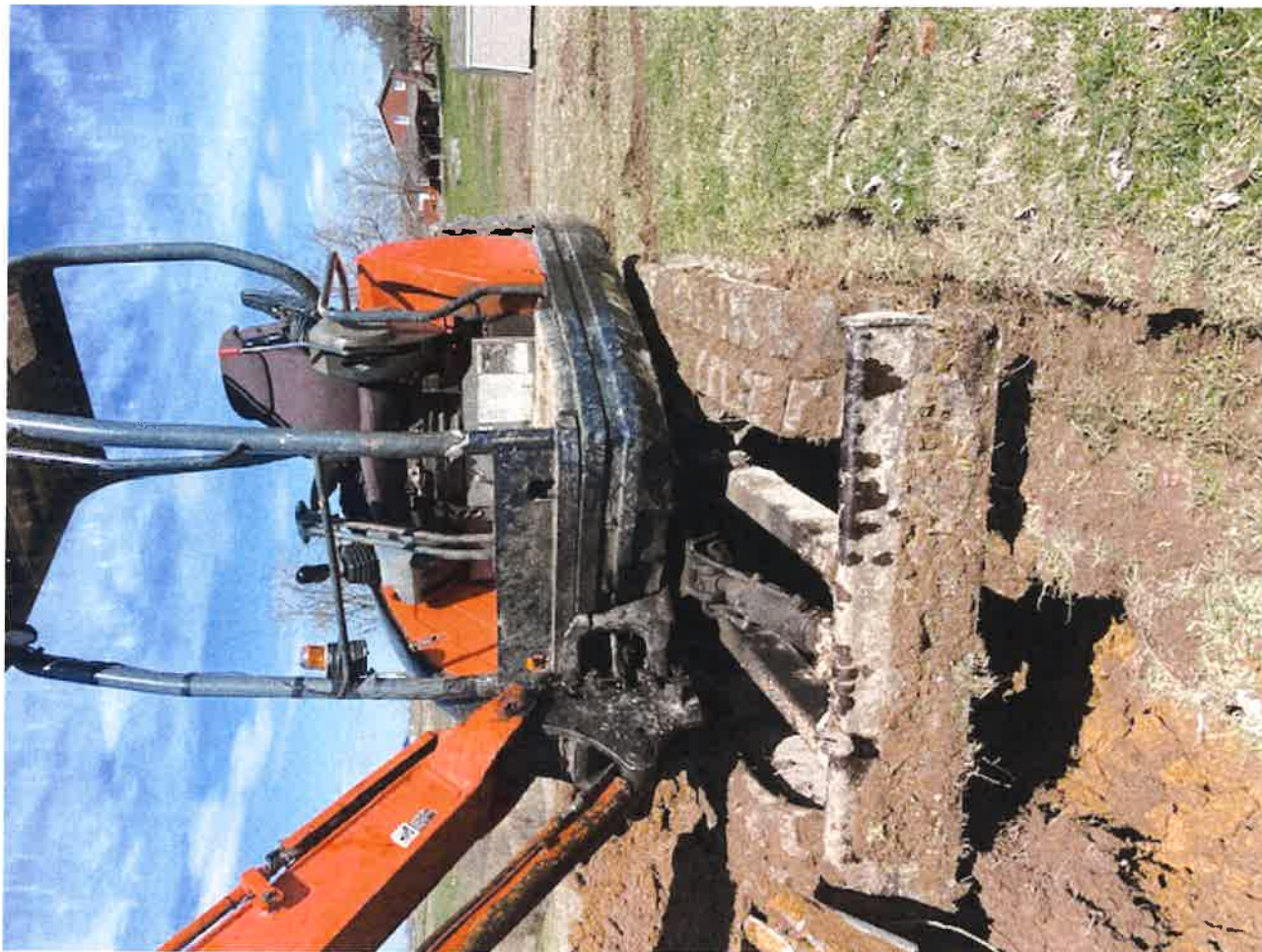
05-1934

Approved By: Donnell Baker

## Darrell Baker

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**From:** Joshua Vanderpool  
**Sent:** Tuesday, 15 March, 2022 05:15 PM  
**To:** Darrell Baker  
**Subject:** 1952 Oldham Rd line break







# 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

November 28, 2023

Scott McNabb  
181 Winding Way  
Owingsville, KY 40360

Re: Violation of Kentucky Underground Facility Damage Prevention  
Act Incident Number: **54507**

### Past Due Notice

Dear Mr. McNabb:

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 Mr. McNabb 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 Mr. McNabb of responsibility for the damage, the Commission will institute an administrative proceeding against Mr. McNabb. 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 demand for remedial measures and penalty assessment, please contact Eric V. Tout, Division of Inspections at [ericv.tout@ky.gov](mailto: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. 2024-00235 DATED AUG 15 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 at 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. 2024-00235 DATED AUG 15 2024

EIGHT PAGES TO FOLLOW

ESTADO DE KENTUCKY  
ANTE LA COMISIÓN DE SERVICIOS PÚBLICOS

Concerniente:

SCOTT MCNABB	)	
	)	
_____	)	CASO NO.
	)	2024-00235
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

Scott McNabb (Mr. McNabb) 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>1</sup> Una audiencia sobre este caso tendrá lugar el 25 de Octubre 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>1</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 Mr. McNabb 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 MR. MCNABB 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. Mr. McNabb 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. Mr. McNabb comparecerá el 25 de Octubre 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 25 de Octubre de 2024 se llevará a cabo por videoconferencia.

4. Mr. McNabb 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. Mr. McNabb notificará a la Comisión, al menos diez días antes de la audiencia, si Mr. McNabb 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 54507, que se adjunta a esta Orden como Apéndice A, forma parte del expediente de este caso.

9. La audiencia 25 de Octubre 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

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Presidente

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Vicepresidente

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Comisionado/a

HACE CONSTAR:

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Director/a Ejecutivo/a



APÉNDICE A

APÉNDICE DE UNA ORDEN DE LA COMISIÓN DE SERVICIOS  
PÚBLICOS DE KENTUCKY EN EL CASO No. 2024-00235 FECHADO

DIECINUEVE PÁGINAS A SEGUIR

## APÉNDICE B

### APÉNDICE DE UNA ORDEN DE LA COMISIÓN DE SERVICIOS PÚBLICOS DE KENTUCKY EN EL CASO No. 2024-00235 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.

Scott McNabb  
1952 Oldham Rd.  
Mount Sterling, KENTUCKY 40353