



Damage Prevention Procedures Update

PSC Damage Prevention Team

Melissa Holbrook- Assistant Director Division of Inspections

Eric Tout- Investigator

Ashley Rhodes- Investigator

Jessica Norris-Canfield - Staff Attorney



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Setting Up Account to Submit Excavation Damage Reports

1. Follow this link to create a new Filer Account: <http://psc.ky.gov/Account/Register>
2. Enter your email address and create a password. When logging on later your email address will be your username.
3. Check the box “Is a Utility”
4. Enter your name for the Contact Name
5. Check the last role: “Gas Excavation Damage”
6. Click the button “Register”

The screenshot shows a web browser window with the URL <http://psc.ky.gov/Account/Register>. The page contains a registration form with the following fields and options:

- Is a Utility:** ☐ (Do not check if you are NOT the Utility)
- *Contact Name:**
- Organization:**
- Address1:**
- Address2:**
- City:**
- State:**
- Postal Code:**
- Phone:**
- Fax:**
- Roles**
 - ☐ Interconnection Agreement Filers
 - ☐ Utility Financial Report Filers
 - ☐ Electronic Case Filers
 - ☐ Outage System Regulated Utility
 - ☐ Outage System Non-Regulated Utility
 - ☐ Tariff Filers
 - ☐ Gas Excavation Damage

***Select Roles (must select at least one):**

Kentucky Public Service Commission
Address: P.O. Box 615, 211 Sower Boulevard, Frankfort, Kentucky 40602-0615
Phone: (502) 564-3940, Fax: (502) 564-3460, Hotline: 1-800-772-4636
Office Hours: Monday - Friday 8am - 5pm

[Policies](#) [Security](#) [Disclaimer](#) [Accessibility](#)



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Setting Up Account (cont.)

7. The next page will ask you to select the utility you represent. There will be a drop-down list of ALL active utilities. If you type a few characters of your utility name the list will shorten.
8. Select the utility from the list and click add utility.
9. Click “Complete Registration”.
10. Contact PSC Damage Prevention staff to approve the registration.



Kentucky Public Service Commission

Use the box below to add utilities to your account:

Enter Utility Name and
Select from the list provided:

Louisville Gas and Electric Company (Gas Distribution Companies)

Add Utility

Complete Registration

Kentucky Public Service Commission
P.O. Box 615, 211 Sower Boulevard, Frankfort, Kentucky 40602-0615
Phone (502) 564-3940, Fax (502) 564-3460

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Kentucky Public Service Commission

Use the box below to add utilities to your account:

Enter Utility Name and
Select from the list provided:

Louisville Gas and Electric Company (Gas Distribution Companies)

Add Utility

	Utility ID	Company Name
X	22200500	Louisville Gas and Electric Company

Complete Registration

Kentucky Public Service Commission
P.O. Box 615, 211 Sower Boulevard, Frankfort, Kentucky 40602-0615
Phone (502) 564-3940 Fax (502) 564-3460

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Gas Excavation Damage Report

If it is not documented it did not happen, e.g.:

- Reports
- Photographs
- Written agreements, No Verbal agreements
- Diagrams / Drawings
- Other Relevant Evidence

Again if it is not documented it did not happen.



Gas Excavation Damage Report

Operator Name

Submitted date and Incident ID: (Both auto populate and ID is how PSC tracks the incident)

Set back to Edit and Staff Edit

Reported By:

Name:

Phone:

Email:

Gas Line Incident Occurred:

Date:

Time:



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Details:

Reported Date: (Date and Time)

Location:

Address:

City:

County:

Zip:

Number of Customers out:



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Was gas or hazardous liquids contained in the underground facility? (Check if appropriate)

Was gas or hazardous liquids released into the atmosphere? (Check if appropriate)

Locate Request Ticket No.: (The Locate Request Ticket numbers are ten digits)

Excavator: (The following is in a dropdown to pick from)

- Homeowner
- Contractor
- Utility
- State Agency
- Municipality



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Excavator Address:

First Name:

Last Name:

Organization ID: (From the Secretary of State web site)

Company: (Should be exactly from the Secretary of State web site, lower case)

Phone:

Email:

Address: (Mailing Address)

City:

State:

Zip:

Number of Customers out:



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Excavation Damage: (This is a dropdown)

- Incorrect facility maps
- Abandoned facility
- Data not collected
- Deteriorated facility
- Facility could not be found or located
- Facility marking or location not sufficient
- Failure to maintain clearance
- Failure to maintain marks
- Failure to support exposed facilities
- Failure to test-hole(pot hole)
- Failure to use hand tools where required
- Improper backfilling practices
- No notification made to the One Call Center
- One Call Center error
- One Call notification practices not sufficient
- Other
- Other insufficient excavation practices
- Previous damage
- Wrong information provided to One Call Center



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Description of Incident: (Brief description of what occurred, e.g. Excavator damaged a service with a backhoe installing cable).

Full details such as the cause: (Detailed account should be outlined here)

Extent of the damage: (Explain what was damaged, e.g. Type/Size of Facility, i.e., Feet & Inches, Service, Main, Transmission, Storage, etc...)

Cost of the damage: (Estimated Cost)

Steps taken to prevent reoccurrence: (e.g. Safety tailgate explained law, etc...)

Amount billed to excavator:



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Full details such as the cause, should include but not limited to:

Locate Ticket (LT)

Injury/Property Damage

Markings/Photographs

Type of Equipment Involved

Hard Surface

Positive Response (PR)



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Full details such as the cause, should include but not limited to:

Locate Ticket (LT)

Is there a LT?

Is the LT expired (21 calendar days from the day of the initial request)

Is the LT an emergency ticket?

Was this underground damage emergency with or without a LT request and was there:

1. Substantial likelihood of the loss of life or property.
2. The inability to restore interrupted utility service.
3. An imminent danger to health or the environment.
4. The blockage of public transportation facilities.



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Injury/Property Damage

Were there any injuries as a result of the incident? (Provide informant on who was injured)

Was there any property damage other than to the underground facility? (Describe what was damaged)



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Markings/Photographs

Was the incident location marked?

Was the incident location marked accurately (Within 24 inches)? Feet: __ __ Inches: __ __ /

Distance outside the tolerance zone): Feet: __ __ Inches: __ __

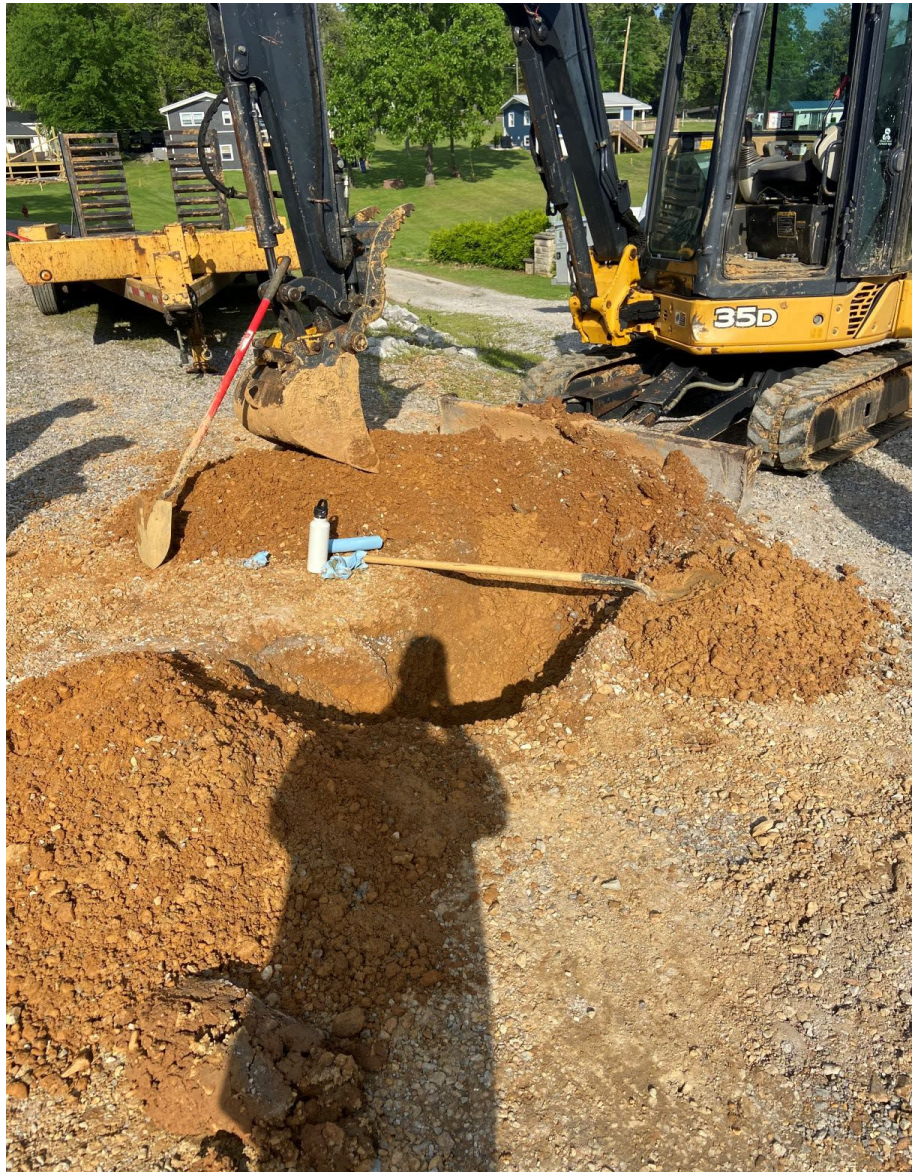
If mislocated /mismarked what was the reason: (e.g., Broken tracer wire, Facility maps not accurate, Locator error Signal Jumped to another facility etc...)

If Pre-Excavation and Damage Photographs are not available state why? (i.e., Employee phone no longer operable)



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***What do
these
photos
tell us?***





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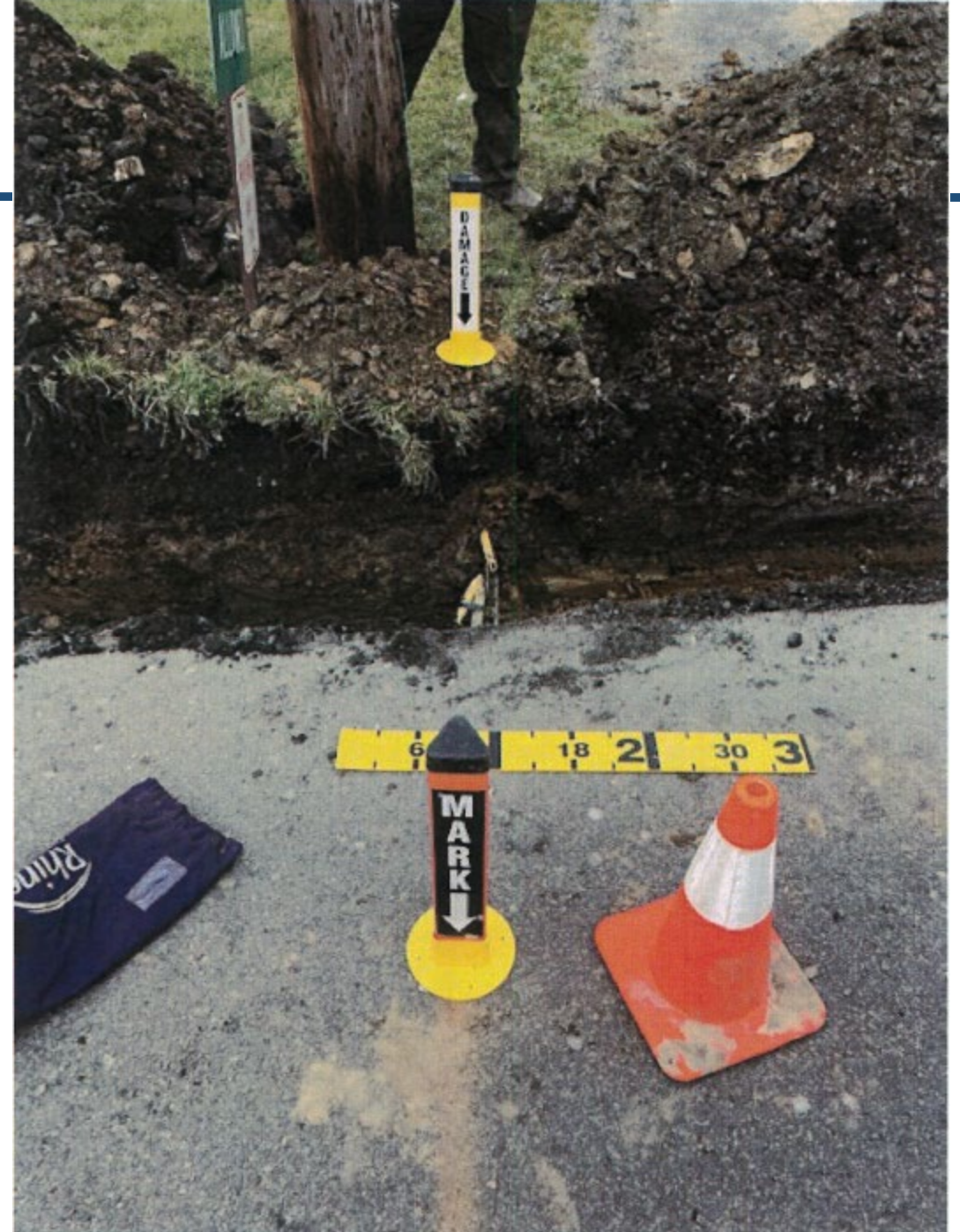


Is the damage within the
tolerance zone?

(18 inches prior to January 1,
2022, 24 inches after January 1,
2022)



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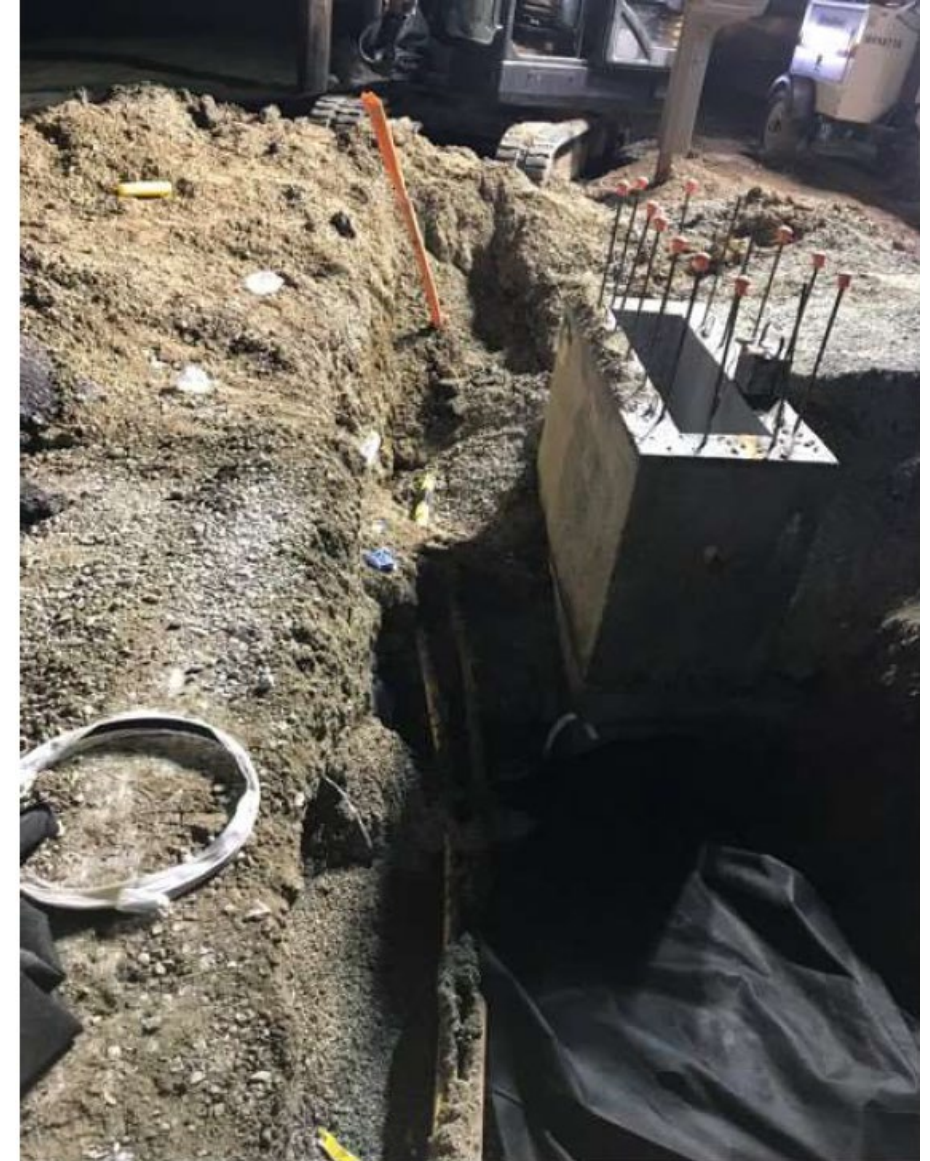


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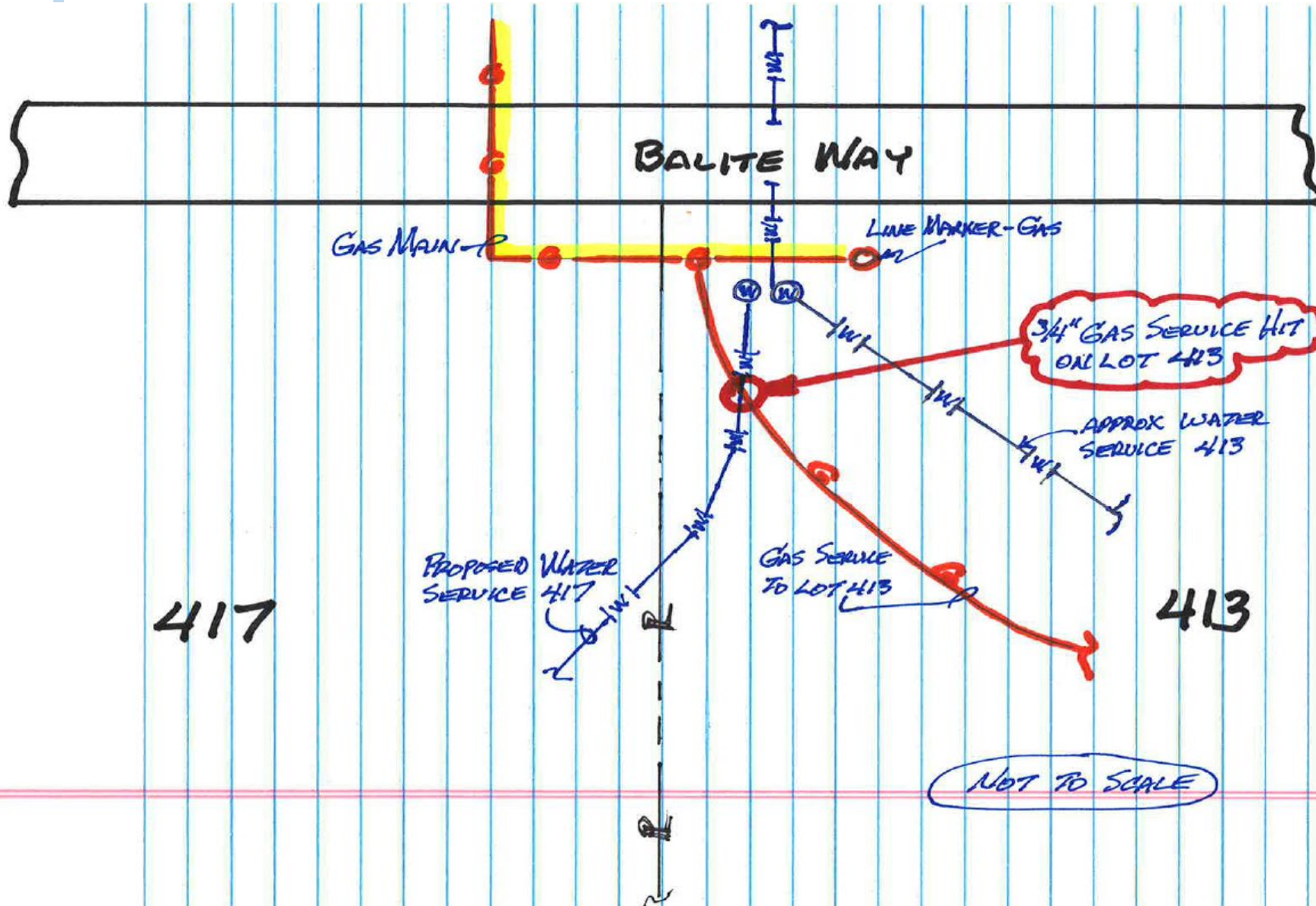


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The water valves were in the same box.

The dig ticket was for a locate at 417.

The service to 413 passed between 417 and the water box.

The locate was accurate for the dig ticket.

The excavator did not know that the water valve for 417 was on the property of 413.



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Type of Equipment Involved

Identify if mechanized equipment or hand tools were being utilized. (e.g., Auger , Bulldozer, Backhoe, Shovel, Hand Probe, Axe, etc...)



The Excavator reported that the line was hit with a shovel by hand. Non-mechanized equipment?



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Hard Surface

Was a Hard Surface involved? (e.g., Asphalt, Concrete, Indigenous Rock, Packed Rock/Gravel, etc...)

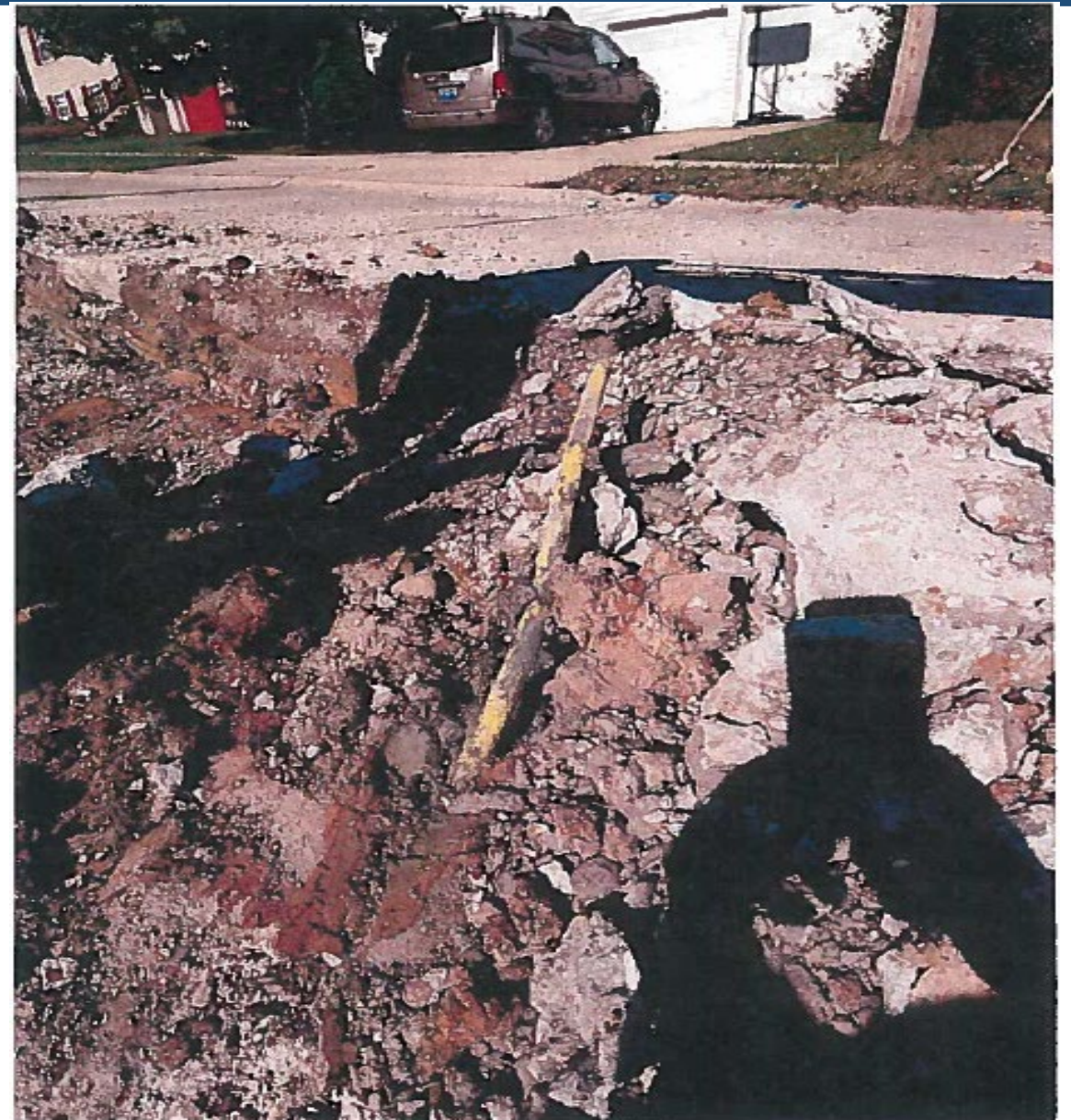
Thickness of the hard surface: Feet: __ __ Inches: __ __

Once the hard surface was remove could it be hand dug?

Depth of the underground facility from the underside of the hard surface: Feet: __ __ Inches: __ __



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Positive Response (PR)

Was PR sent within two days of the LT request? (The two day wait period begins 12 midnight Eastern Time the day the request is made)

Was PR sent within one day of the Second Notice? (The one day wait period begins 12 midnight Eastern Time the day the Second Notice is made)

Was PR sent within in five days of the LT date for the un-locatable/un-tonable underground facility? (The five day count begins at 12 midnight eastern time the day the Locate Ticket was requested)

PR sent to: (Date Positive Response Sent, Name, Email, Phone #)



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*****NEW Procedure*****

Damage Prevention Email

psc.dmgprevention@ky.gov

What is it for?

- To submit all additional incident documentation that is not included on the operator report.
i.e. photos, locate ticket, invoices, etc.
- To Reduce investigation time.
- To reduce operator contact to an as needed basis.

When is it submitted?

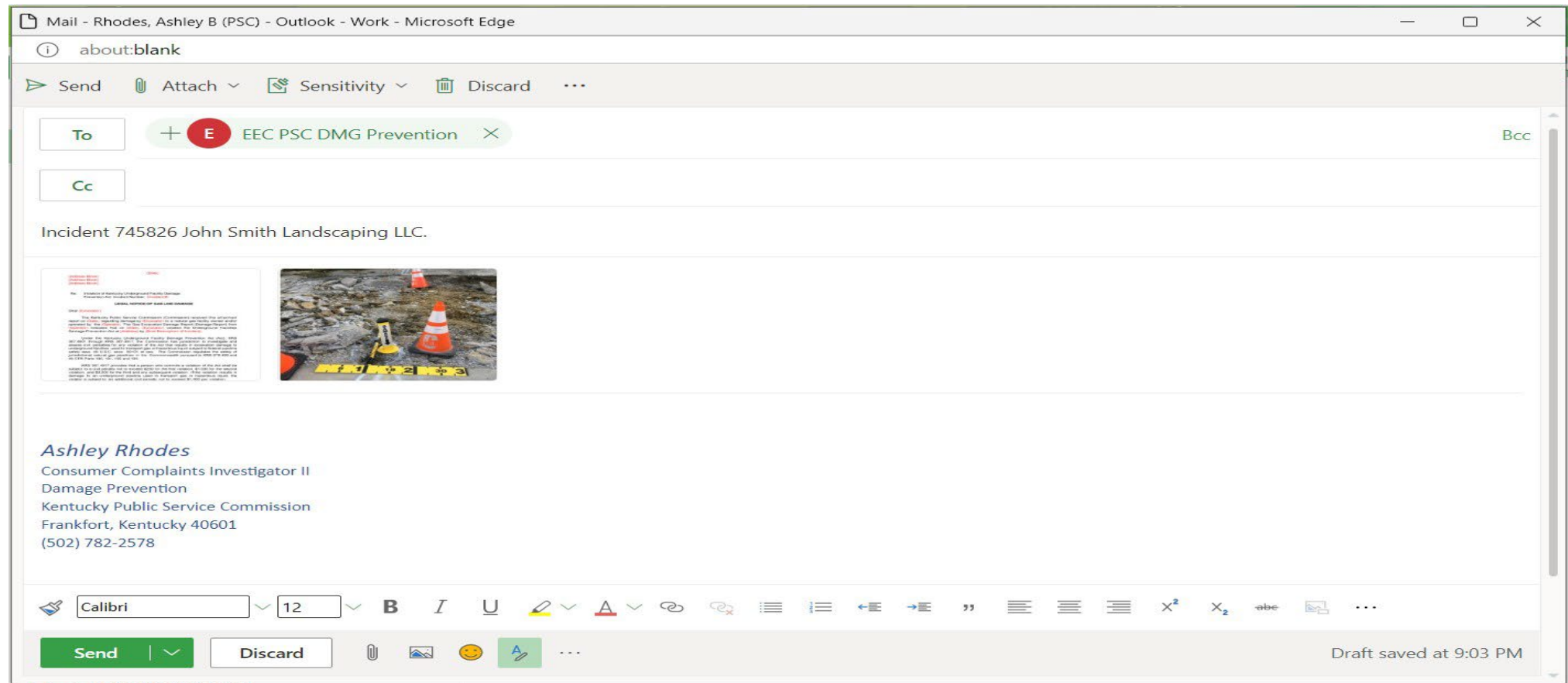
- When the operator report is submitted.
- When additional documentation is obtained after the report is submitted then follow-ups



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How to label the email for a specific incident

- Email will be sent to: psc.dmgprevention@ky.gov
- Subject line will need to include the incident number (listed on the operator report) and the name of the excavator.





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Damage Prevention Procedural Changes

- **Legal Notice Procedure**
 - Provide 3 resolution options for the excavator:
 1. Hearing before the Commission
 2. Full Penalty Payment (\$1250)
 3. Reduced Penalty Payment (\$250) with Remedial Training Course
- **REQUIRES THE EXCAVATOR TO CONTACT DAMAGE PREVENTION.** A point of contact will be provided for each resolution option. Excavator has **30 days** to respond.
- If a resolution is reached, the case will be closed.
- If a resolution is not reached, the case will be sent to Legal for hearing.
 - No contact by the excavator;
 - No performance by the excavator; and
 - Partial performance by the excavator.



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Damage Prevention Procedural Changes- Excavator Notification Example

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
Fax: (502) 564-3460
psc.ky.gov

Kent A. Chandler
Chairman

Mary Pat Regan
Vice Chairman

{Address Block}
{Address Block}
{Address Block}

(Date)

Re: Violation of Kentucky Underground Facility Damage
Prevention Act Incident Number: (Incident #)

LEGAL NOTICE OF GAS LINE DAMAGE

Dear (Excavator):

The Kentucky Public Service Commission (Commission) received the attached report on (Date), regarding damage by (Excavator) to a natural gas facility owned and/or operated by the (Operator). The Gas Excavation Damage Report (Damage Report) from (Operator) indicates that on (Date), (Excavator) violated the Underground Facilities Damage Prevention Act at (Address) by (Brief Description of Incident).

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 (Excavator) within the past 365 days.

2. The statutory provision that (Excavator) 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:** (Excavator) has the right to dispute the allegations made by (Operator). 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 or 502-782-2622, or ericv.tout@ky.gov prior to paying the civil penalty.

2. **Penalty Payment:** This incident may be resolved by (Excavator) 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 (Excavator) does not wish to dispute the alleged violation, (Excavator) should mail or deliver a cashier's check or money order, within 30 days of the date of this letter, in the amount of \$1,250.00 made payable to **Kentucky State Treasurer** and mailed to the following address:

Kentucky Public Service Commission
211 Sower Boulevard, Frankfort, Kentucky 40602

Please include the Incident Number (Incident #) on the cashier's check or money order submitted for payment. 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.

3. **Training:** If this letter indicates this is (Excavator)'s first alleged violation of the Act, (Excavator) should contact Ashley Rhodes, Division of Inspections, at ashleyrhodes@ky.gov or (502) 782-2578 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.**

ADMINISTRATIVE PROCEEDING

If (Excavator) 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 (Excavator) of responsibility for the damage, the Commission will institute an administrative proceeding against (Excavator).

The Administrative Proceeding will include a formal hearing in front of the Commission, during which (Excavator) 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 (Excavator) 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.

Sincerely,

Nancy J. Vinsel

Nancy J. Vinsel
General Counsel

Attachment



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Damage Prevention Procedural Changes- Past Due

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
Fax: (502) 564-3460
psc.ky.gov

Kent A. Chandler
Chairman

Mary Pat Regan
Commissioner

(Date)

Name
Company
Address
City/State/Zip

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

30 Days Past Due

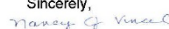
Dear Mr. /Mrs.:

This is a reminder that your account is now past due in the amount of \$X.xx. Attached is the Notice of Gas Line Damage and the Investigation Report that was previously sent to you for the above Incident, which our records indicate as UNRESOLVED.

If we do not hear from you or receive payment in full, or reduced payment and remedial training completed, within 30 days from the date of this letter, Incident Number XXXXX will be referred to the Commission for an Administrative Hearing to be held at the Commission's offices, which may result in a default judgment against you.

Once a referral to the Commission is made for the Administrative Hearing, any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky. Thank you for your prompt attention to this matter.

If you have any questions regarding this notice or if you find that this penalty has already been paid, please contact Eric V. Tout, Division of Inspections at 502-782-2622.

Sincerely,

Nancy J. Vinsel
General Counsel

Attachment

- If the excavator does not respond
 1. Past Due Letter
 2. Finalize Investigation Report
 3. Hearing Request to Legal



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Damage Prevention Procedural Changes

Initiating Order

- Hearing Procedure

Initiating Order

- ✓ Alleged Violation
- ✓ Date and Time
- ✓ Go to Meeting Link
- Settlement is available
- Subpoenas to Operators



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Damage Prevention Procedural Changes

Damage Prevention Hearing

- Roll Call
- Mute until case is called
- Direct and Cross Examination

All business entities, including LLC, must be represented at the administrative proceeding by legal counsel licensed to practice law in Kentucky.

- Order from Public Service Commission
- Circuit Court process will be initiated seeking garnishment.



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Damage Prevention Procedural Changes

As an **excavator**:

- Respond so we can work with you
 - Training
 - Reduced Penalty
 - Continuances
- Provide your own evidence
 - Maintain your own record
 - Do not delay



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Damage Prevention Procedural Changes

As an **operator**:

- Respond so we can work with you
 - Training
 - Reset for Reduced Penalty
- Provide your evidence
 - Maintain your record
 - Do not delay