

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

HAYDEN CONSTRUCTION – ALLEGED )  
VIOLATION OF UNDERGROUND FACILITY ) CASE NO. 2019-00167  
DAMAGE PREVENTION ACT )

NOTICE OF FILING

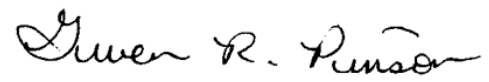
Notice is given to all parties that the following materials have been filed into the record of this proceeding:

- The digital video recording of the evidentiary hearing conducted on August 9, 2019 in this proceeding;
- Certification of the accuracy and correctness of the digital video recording;
- All exhibits introduced at the evidentiary hearing conducted on August 9, 2019 in this proceeding;
- A written log listing, *inter alia*, the date and time of where each witness' testimony begins and ends on the digital video recording of the evidentiary hearing conducted on August 9, 2019.

A copy of this Notice, the certification of the digital video record, hearing log, and exhibits have been served upon all persons listed at the end of this Notice. Parties desiring to view the digital video recording of the hearing may do so at <https://youtu.be/AU61HCfB9kc>.

Parties wishing an annotated digital video recording may submit a written request by electronic mail to [pscfilings@ky.gov](mailto:pscfilings@ky.gov). A minimal fee will be assessed for a copy of this recording.

Done at Frankfort, Kentucky, this 22<sup>nd</sup> day of August 2019.

A handwritten signature in black ink that reads "Gwen R. Pinson". The signature is written in a cursive style with a large initial 'G' and a long horizontal stroke at the end.

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Gwen R. Pinson  
Executive Director  
Public Service Commission of Kentucky

Steve Hayden  
Hayden Construction  
3830 Vincent Station Dr.  
Owensboro, KENTUCKY 42303

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CERTIFICATION

I, KaBrenda L. Warfield, hereby certify that:

1. The attached DVD contains a digital recording of the Formal Hearing conducted in the above-styled proceeding on August 09, 2019. Hearing Log, Exhibit List, Exhibit, and Witness List are included with the recording on August 09, 2019.
2. I am responsible for the preparation of the digital recording;
3. The digital recording accurately and correctly depicts the Formal Hearing of August 09, 2019.
4. The Hearing Log attached to this Certificate accurately and correctly states the events that occurred at the Formal Hearing of August 09, 2019 and the time at which each occurred.

Signed this 21<sup>st</sup> day of August, 2019.



*KaBrenda L. Warfield*  
KaBrenda L. Warfield, CKP  
Paralegal Consultant

*Jacqueline Hartzell*  
Jacqueline Hartzell, Notary Public  
State at Large  
Commission Expires: July 25, 2022  
ID#: 605476



# Session Report - Detail

2019-00167 09Aug2019

Hayden Construction Co., Inc.  
(Hayden Construction)

Date:	Type:	Location:	Department:
8/9/2019	Show Cause Hearing	Hearing Room 1	Hearing Room 1 (HR 1)

Witness: John Lyons  
Judge: Michael Schmitt  
Clerk: KaBrenda Warfield

Event Time	Log Event	
11:35:38 AM	Session Started	
11:35:40 AM	Chairman Schmitt Note: Warfield, KaBrenda	We are now back on the record to consider Case No. 2019-00167, Hayden Construction, alleged violation of Underground Facility Damage Prevention Act. Hayden Construction Company, Inc., is alleged to have violated 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."
11:36:32 AM	Chairman Schmitt Note: Warfield, KaBrenda	Mr. Park, is that the charge and, in fact, the only charge against Hayden Construction Company, Inc.?
11:36:37 AM	Staff Atty Park PSC Note: Sacre, Candace	Yes, that is correct.
11:36:40 AM	Chairman Schmitt Note: Warfield, KaBrenda	Is anyone in the hearing room present on behalf of Hayden Construction Company, Inc.?
11:36:46 AM	Chairman Schmitt Note: Warfield, KaBrenda	No one appears to be here on behalf of Hayden Construction Company, Inc, and, for the record, it will be noted that this case was previously called a few minutes after 9 o'clock this morning, and, at that time, there was no one present on behalf of Hayden Construction Company, Inc.
11:37:07 AM	Chairman Schmitt Note: Warfield, KaBrenda	Mr. Park, has Hayden Construction Company, Inc., been served with process, or have they filed an answer or response to the initiating Order in this case?
11:37:20 AM	Staff Atty Park PSC Note: Sacre, Candace	Hayden Construction has been served with process via certified mail, and proof of service has been filed in the record. No response was filed to the Order on behalf of Hayden Construction.
11:37:32 AM	Chairman Schmitt Note: Sacre, Candace	All right. At this time, Mr. Park, are you prepared to provide testimony with regard to the alleged violation?
11:37:38 AM	Staff Atty Park PSC Note: Sacre, Candace	Yes, Mr. Chairman, Staff calls Mr. John Lyons.
11:37:49 AM	Chairman Schmitt Note: Warfield, KaBrenda	Witness is sworn.
11:37:58 AM	Chairman Schmitt Note: Sacre, Candace	Please be seated. Mr. Park?

11:38:01 AM	Staff Atty Park PSC - witness Lyons Note: Sacre, Candace	Direct Examination. Mr. Lyons, what is your position with the Kentucky Public Service Commission?
11:38:11 AM	Staff Atty Park PSC - witness Lyons Note: Warfield, KaBrenda	And what has been your role in developing and administering the Commission's program to enforce the Underground Facilities Damage Prevention Act?
11:38:42 AM	Staff Atty Park PSC - witness Lyons Note: Sacre, Candace	As part of your responsibilities, do you supervise Commission employees whose job it is to investigate pipeline damage?
11:38:51 AM	Staff Atty Park PSC - witness Lyons Note: Warfield, KaBrenda	Do you review investigations of pipeline damage by employees under your supervision and the findings they make?
11:38:56 AM	Staff Atty Park PSC - witness Lyons Note: Warfield, KaBrenda	And have you, as well, investigated incidents yourself?
11:39:03 AM	Staff Atty Park PSC - witness Lyons Note: Sacre, Candace	Are you familiar with an incident occurring on August 28, 2018, at 3543 Highway 54 in Owensboro, Kentucky?
11:39:13 AM	Staff Atty Park PSC Note: Warfield, KaBrenda	May I approach, Your Honor?
11:39:15 AM	Chairman Schmitt Note: Sacre, Candace	Yes, you may.
11:39:37 AM	Staff Atty Park PSC - witness Lyons Note: Sacre, Candace	Mr. Lyons, could you please describe this document?
11:39:50 AM	Staff Atty Park PSC - witness Lyons Note: Warfield, KaBrenda	And does this pertain to the incident that occurred on August 28, 2018 in Owensboro?
11:39:57 AM	Staff Atty Park PSC - witness Lyons Note: Warfield, KaBrenda	And did you prepare this report?
11:40:00 AM	Staff Atty Park PSC - witness Lyons Note: Sacre, Candace	Is it a true and accurate copy of the report you prepared?
11:40:04 AM	Staff Atty Park PSC Note: Warfield, KaBrenda	Mr. Chairman, Staff moves to admit this document as PSC Exhibit 01.
11:40:08 AM	Chairman Schmitt Note: Sacre, Candace	Sustained.
11:40:09 AM	PSC EXHIBIT 01 Note: Sacre, Candace Note: Sacre, Candace	STAFF ATTY PARK PSC - WITNESS LYONS. HAYDEN CONSTRUCTION CO., INC., PIPELINE DAMAGE INVESTIGATION REPORT.
11:40:54 AM	Staff Atty Park PSC - witness Lyons Note: Warfield, KaBrenda	And what finding did you reach in this report regarding any alleged violation of the Act?
11:41:23 AM	Staff Atty Park PSC - witness Lyons Note: Warfield, KaBrenda	And what was the proposed enforcement?
11:41:52 AM	Staff Atty Park PSC - witness Lyons Note: Warfield, KaBrenda	Did Hayden Construction pay the proposed penalty or the reduced penalty?
11:42:05 AM	Staff Atty Park PSC - witness Lyons Note: Warfield, KaBrenda	Did a representative from Hayden Construction attend the required training?
11:42:16 AM	Staff Atty Park PSC Note: Sacre, Candace	I have no further questions.

11:42:18 AM	Chairman Schmitt - witness Lyons Note: Sacre, Candace	Examination. I take it this is the first alleged violation of the Act by Hayden Construction Company?
11:43:06 AM	Chairman Schmitt Note: Sacre, Candace	I have nothing further. Mr. Park, anything else?
11:43:08 AM	Staff Atty Park PSC Note: Sacre, Candace	I have no further questions.
11:43:09 AM	Chairman Schmitt Note: Sacre, Candace	This is the last case to be heard this morning, is that correct?
11:43:13 AM	Staff Atty Park PSC Note: Sacre, Candace	That is correct, Your Honor.
11:43:16 AM	Chairman Schmitt Note: Sacre, Candace	With that, this hearing is hereby adjourned, which concludes the business of the Commission for today.
11:43:27 AM	Session Ended	



## Exhibit List Report

2019-00167 09Aug2019

Hayden Construction Co., Inc.  
(Hayden Construction)

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**Name:****Description:**

PSC Exhibit 01

Pipeline Damage Investigation Report



# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

<b>KY PSC Investigator(s)</b> John Lyons	<b>Incident ID</b> 20853
<b>Incident Date</b> 8/28/2018 12:00:00 PM	<b>Report Submitted</b> 8/28/2018 1:59:51 PM

## OPERATOR INFORMATION

<b>Operator</b> Atmos Energy Corporation <b>Phone</b> (270) 685-8138 <b>Incident Location</b> 3943 Highway 54, Owensboro KY Originally 3940 Highway 54 Owensboro, KY 42303  Davieess	<b>Reported By</b> Steve Clark <b>Email</b> steve.clark@atmosenergy.com <b>Locate Ticket Number</b> N/A
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## EXCAVATOR INFORMATION

<b>Name of Excavator</b> Steve Hayden <b>Phone</b> 270-929-6003/270-683-3057 <b>Excavator Address</b> Hayden Construction Co., Inc. 3830 Vincent Station Dr Owensboro, KY 42303	<b>Organization ID</b> 0076943 <b>Email</b> N/A <b>Locate Ticket Number</b>
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Operator reports Hayden Construction, helping a friend where house was to eventually be torn down, was asked to find a water line. Looking for the water line, stuck hit a 3/4" PE service line (no wire) with their backhoe. Hayden Construction did not have a locate ticket.

Investigator Lyons called the main office on February 11, 2019, and was given Mr. Steve Hayden's number 270-929-6003. Spoke with Mr. Hayden same day who confirmed the Atmos report of excavation without a locate. Mr. Hayden agreed to first offense penalty and attendance at the May 6, 2019, damage prevention training.

### Violation(s)

KRS 367.4911(1)(a) - Each excavator, or person responsible for an excavation, 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 centers shall satisfy this requirement.

Steve Hayden  
Hayden Construction  
3830 Vincent Station Dr.  
Owensboro, KENTUCKY 42303