

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY FRONTIER GAS, LLC

ALLEGED VIOLATION OF UNDERGROUND
FACILITY DAMAGE PREVENTION ACT

)
) CASE NO. 2019-00322
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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 November 8, 2019 in this proceeding;
- Certification of the accuracy and correctness of the digital video recording;
- All exhibits introduced at the evidentiary hearing conducted on November 8, 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 November 8, 2019.

A copy of this Notice, the certification of the digital video record, and hearing log 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/JX7jT1giyNM>.

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

Done at Frankfort, Kentucky, this 26th day of December 2019.

A handwritten signature in cursive script that reads "Gwen R. Pinson".

Gwen R. Pinson
Executive Director
Public Service Commission of Kentucky

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

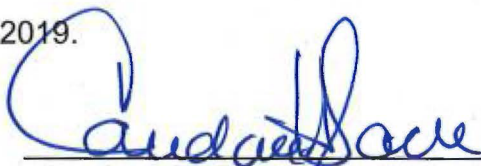
KENTUCKY FRONTIER GAS, LLC)	CASE NO.
ALLEGED VIOLATION OF UNDERGROUND)	2019-00322
FACILITY DAMAGE PREVENTION ACT)	

CERTIFICATION

I, Candace H. Sacre, hereby certify that:

1. The attached DVD contains a digital recording of the Formal Hearing conducted in the above-styled proceeding on November 8, 2019. The Formal Hearing Log, Exhibit List, Exhibits, and Witness List are included with the recording on November 8, 2019;
2. I am responsible for the preparation of the digital recording;
3. The digital recording accurately and correctly depicts the Formal Hearing of November 8, 2019; and
4. The Formal Hearing Log attached to this Certificate accurately and correctly states the events that occurred at the Formal Hearing of November 8, 2019, and the time at which each occurred.

Signed this 20th day of December, 2019.



Candace H. Sacre
Administrative Specialist III



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



Damage Prevention Act - Kentucky Frontier Gas LLC (Kentucky Frontier)

Witness: Nicholas Burchett; Nicholas Burchett; Charles Michael Harris; Charles Michael Harris; John Gowins; John Gowins; John Lyons; John Lyons; Doug Scalf; Doug Scalf; Steve Shute; Steve Shute

Judge: Robert Cicero; Michael Schmitt

Clerk: Candace Sacre

Date:	Type:	Location:	Department:
11/8/2019	Public Hearing\Public Comments	Hearing Room 1	Hearing Room 1 (HR 1)

Event Time	Log Event	
9:05:07 AM	Session Started	
9:05:09 AM	Chairman Schmitt Note: Sacre, Candace	We're on the record. This is the Kentucky Public Service Commission. My name is Michael Schmitt. I am Chairman of the Commission, and seated to my right is Vice Chairman Robert Cicero. Commissioner Talina Mathews has recused to date in every case involving alleged violations of the Underground Facilities Damage Prevention Act.
9:05:35 AM	Chairman Schmitt Note: Sacre, Candace	The purpose of this hearing today is to hold a hearing and consider 13 cases involving alleged violations by Kentucky Frontier Gas, LLC, of the Underground Facilities Damage Prevention Act of 1994. The Public Service Commission has been authorized by KRS 367.4917(6) to enforce and assess civil penalties provided for in the Act and to seek injunctive relief for any violation that results in damage to an underground facility used to transport gas or hazardous liquid subject to the federal pipeline safety laws as set out in 49 U.S. Code Section 60101, et seq.
9:06:27 AM	Chairman Schmitt Note: Sacre, Candace	At this time, would counsel for Kentucky Frontier please identify himself, his client, and those who are with him here today?
9:06:37 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	For Frontier Gas, with me is Steven Shute. He's the managing member of Frontier. Also, is Robert Oxford, member of the corporation, and Mike Harris, who is our operations supervisor.
9:06:50 AM	Chairman Schmitt Note: Sacre, Candace	Will you have witnesses for the cases that are going to be tried?
9:06:54 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Yes, sir.
9:06:55 AM	Chairman Schmitt Note: Sacre, Candace	Who will your witnesses be, Mr. Hughes?
9:06:57 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Mike Harris, Steve Shute, and Bob Oxford.
9:07:02 AM	Chairman Schmitt Note: Sacre, Candace	Okay. Thank you, and for Division of Inspections?

9:07:08 AM	Staff Atty Park PSC Note: Sacre, Candace	Yes, Your Honor. John Park and Tina Frederick for the Commission Division of Inspections. We anticipate calling four witnesses- John Lyons, Deputy Executive Director for the Commission; John Gowins, Commission Investigator; Nick Burchett from Jigsaw Enterprises, the excavator in 00319; and Doug Scaff and James Keathley from Mountain Water District, which was the excavator in the second case.
9:07:39 AM	Chairman Schmitt Note: Sacre, Candace	Thank you. Gentlemen, as I understand it, as a result of the Formal Conference that we had a week or so ago, counsel have apparently arrived at a stipulation with respect to some of the cases or all of the cases but two which basically involves a stipulation of fact which results in the issues of law which, ultimately, I will ask the parties to file a brief at the end of the proceeding. Is that correct, Mr. Hughes?
9:08:13 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Yes.
9:08:14 AM	Chairman Schmitt Note: Sacre, Candace	Mr. Park?
9:08:15 AM	Staff Atty Park PSC Note: Sacre, Candace	That is correct.
9:08:16 AM	Chairman Schmitt Note: Sacre, Candace	May we see the stipulation?
9:08:29 AM	Chairman Schmitt Note: Sacre, Candace	Has this been filed in the record?
9:08:31 AM	Staff Atty Park PSC Note: Sacre, Candace	Yes, sir.
9:08:49 AM	Chairman Schmitt Note: Sacre, Candace	So the cases that will be tried here today are before the Commission, I guess, for a decision? All but two are the subject to this joint stipulation, is that correct, Mr. Hughes?
9:09:08 AM	Staff Atty Park PSC Note: Sacre, Candace	Correct.
9:09:10 AM	Chairman Schmitt Note: Sacre, Candace	Let me read those into the record so we'll have it as part of the official record or transcript in the case. The cases that are subject to the stipulation are – they're all prefaced by 2019 – they are 00280, 00309, 00314, 00315, 00316, 00317, 00318, 00321, 00322, 00323, and 00324, is that correct? Have I accurately set out the cases that are subject to the stipulation?
9:09:48 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Yes, but just for a point of clarification, the stipulation applies to the issues in all of the cases. The two cases that are being tried have facts that are unique to those situations, so it's the facts of those two cases, but the legal issue that has been stipulated to these other cases also applies to those two cases.
9:10:14 AM	Chairman Schmitt Note: Sacre, Candace	Well, let me ask this then. I think I know the answer, but the record in each of these cases consists of the initiating order with a copy of the investigative report or something attached to it, incorporated into it, and then there's essentially, Mr. Hughes, your Answer, you wrote a letter, and there's not much more in here other than our Orders that we entered -
9:10:40 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	That's correct.

9:10:41 AM	Chairman Schmitt Note: Sacre, Candace	- for the conference and consolidating the cases and for purposes of hearing only, and then basically this stipulation, correct?
9:10:51 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	That's correct.
9:10:53 AM	Chairman Schmitt Note: Sacre, Candace	So the decision on the issues that are the subject of the stipulation will be decided on the stipulation only, correct?
9:11:02 AM	Staff Atty Park PSC Note: Sacre, Candace	Correct.
9:11:03 AM	Chairman Schmitt Note: Sacre, Candace	I mean, that's what everybody's agreed to?
9:11:04 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	That's correct.
9:11:05 AM	Chairman Schmitt Note: Sacre, Candace	These are the facts, so nothing else that's in there, and there isn't much else, but, for those cases, all but the two, will be decided based on your all's stipulation?
9:11:14 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	That's correct.
9:11:15 AM	Chairman Schmitt Note: Sacre, Candace	That's the agreement, correct?
9:11:16 AM	Staff Atty Park PSC Note: Sacre, Candace	That is correct.
9:11:19 AM	Chairman Schmitt Note: Sacre, Candace	Okay, then what we will do is then call these two cases that are going to be tried. We'll just call the numbers separately, and I'll ask if any of the parties have anything else they want to contribute or any other issues involved, and then we'll go ahead and begin with proof.
9:11:45 AM	Chairman Schmitt Note: Sacre, Candace	Case No. 2019-00319, alleged violation of Underground Facilities Damage Prevention Act by Kentucky Frontier Gas, LLC. Counsel for the Division of Inspections, would you, please, identify yourself, your client, and your witnesses for this case?
9:12:13 AM	Staff Atty Park PSC Note: Sacre, Candace	Yes, Your Honor. John Park and Tina Frederick for the Commission Division of Inspections. For Case 00319, our witnesses are John Lyons, John Gowins, and Nick Burchett, and, Your Honor, Mr. Lyons' testimony, I ask that he not have to repeat it for both of these cases. It's more in the nature of a general discussion of the program; whereas, Mr. Gowins is the investigator on both the cases.
9:12:41 AM	Chairman Schmitt Note: Sacre, Candace	Mr. Hughes?
9:12:42 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	That's fine.
9:13:09 AM	Chairman Schmitt Note: Sacre, Candace	All right. Mr. Hughes, please identify yourself, your client, and your witnesses for this case.
9:13:14 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Jack Hughes for Kentucky Frontier Gas. I have Steve Shute, managing member of the company; Bob Oxford, member of the company; and Mike Harris, who is the operations supervisor.

9:13:29 AM	Chairman Schmitt Note: Sacre, Candace	All right. Now, are there any unique issues in this case? Is there any question about exhibits? Do you have exhibits or any objections -
9:13:37 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	No, sir.
9:13:39 AM	Chairman Schmitt Note: Sacre, Candace	- that anyone knows of at this time that ought be raised before us?
9:13:43 AM	Staff Atty Park PSC Note: Sacre, Candace	We do have some exhibits. They're all in the record, but it consists of the staff report as well as the dig ticket. I, at least, want to enter the staff report, but I don't think there's any dispute regarding the other material which is already in the record.
9:13:56 AM	Chairman Schmitt Note: Sacre, Candace	Do you have any objection, Mr. Hughes?
9:13:57 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	No, sir.
9:13:59 AM	Chairman Schmitt Note: Sacre, Candace	All right. If there's nothing further, Mr. Park, call your first witness.
9:14:04 AM	Staff Atty Park PSC Note: Sacre, Candace	Division of Inspections calls John Lyons.
9:14:18 AM	Chairman Schmitt Note: Sacre, Candace	Witness is sworn.
9:14:27 AM	Chairman Schmitt Note: Sacre, Candace	Mr. Park, you may ask.
9:14:30 AM	Staff Atty Park PSC - witness Lyons Note: Sacre, Candace	Direct Examination. Please state your name for the record.
9:14:34 AM	Staff Atty Park PSC - witness Lyons Note: Sacre, Candace	And what is your current employment?
9:14:40 AM	Staff Atty Park PSC - witness Lyons Note: Sacre, Candace	And what is your current or, should I say, what are your current positions?
9:14:52 AM	Staff Atty Park PSC - witness Lyons Note: Sacre, Candace	In your position as Deputy Executive Director and Acting Director of the Division of Inspections, what is your role in administering the Commission's program to enforce the Underground Facilities Damage Prevention Act?
9:15:20 AM	Staff Atty Park PSC - witness Lyons Note: Sacre, Candace	How long has the Commission had a program to enforce the Underground Facilities Damage Prevention Act?
9:15:39 AM	Staff Atty Park PSC - witness Lyons Note: Sacre, Candace	And you indicated when the law went into effect. Can you please explain the amendment you're speaking of?
9:16:29 AM	Staff Atty Park PSC - witness Lyons Note: Sacre, Candace	Did the amendment, which went into effect in July of 2018, change any of the obligations of either a pipeline operator or excavator under the statute, or did those obligations remain the same?
9:17:03 AM	Staff Atty Parks PSC - witness Lyons Note: Sacre, Candace	In your position at the Commission, do you supervise Commission employees whose job it is to investigate pipeline digging damage?
9:17:13 AM	Staff Atty Park PSC - witness Lyons Note: Sacre, Candace	Are you aware of the 13 incidents of excavation damage to Frontier pipelines that are the subject of these proceedings?
9:17:21 AM	Staff Atty Park PSC - witness Lyons Note: Sacre, Candace	Did you supervise the investigation of these incidents?

9:17:28 AM Staff Atty Park PSC - witness Lyons
Note: Sacre, Candace Each of these cases involved a failure to locate facilities, is that correct?

9:17:34 AM Staff Atty Park PSC - witness Lyons
Note: Sacre, Candace And Frontier was cited for violating the statutory obligation to locate, mark, and describe facilities?

9:17:48 AM Staff Atty Park PSC - witness Lyons
Note: Sacre, Candace Could you describe your understanding, based upon the investigation of these incidences, to what Frontier's practice has been, at least, up until these incidents, with respect to when it receives a locate request of a line that lacks tracer wire and is nonmetallic?

9:18:42 AM Staff Atty Park PSC - witness Lyons
Note: Sacre, Candace Were these lines marked with temporary or permanent markers such as tape, flags?

9:18:50 AM Staff Atty Park PSC - witness Lyons
Note: Sacre, Candace Did Frontier, to your knowledge, give the operator a general location of the facilities or, at least, indicate whether there were facilities in the proposed dig area?

9:19:29 AM Staff Atty Park PSC - witness Lyons
Note: Sacre, Candace In these 13 incidents, other than indicating a general area of the lines, would Frontier come back and locate the lines by another method, sonar, radar, or hand digging?

9:19:48 AM Staff Atty Park PSC - witness Lyons
Note: Sacre, Candace Is Frontier the only gas operator that has an issue with lines that cannot be located electronically and lines where there is not adequate mapping?

9:20:43 AM Staff Atty Park PSC - witness Lyons
Note: Sacre, Candace Are you aware whether any other operators who are not able to locate and mark a line allow the excavator to attempt to locate it itself?

9:21:20 AM Staff Atty Park PSC - witness Lyons
Note: Sacre, Candace Do you think with respect to the operator and the excavator it is the operator's obligation to know where its lines are and to mark them in the interest of public safety?

9:21:31 AM Staff Atty Park PSC - witness Lyons
Note: Sacre, Candace And what are the potential consequences of a strike of a natural gas pipeline, an active natural gas pipeline?

9:22:02 AM Staff Atty Park PSC
Note: Sacre, Candace I have no further questions.

9:22:05 AM Chairman Schmitt
Note: Sacre, Candace Mr. Hughes?

9:22:10 AM Atty Hughes Kentucky Frontier - witness Lyons
Note: Sacre, Candace Cross Examination. You said that you have been involved with the 367 statute since you came to the Commission?

9:22:38 AM Atty Hughes Kentucky Frontier - witness Lyons
Note: Sacre, Candace What was your position prior to coming to the Commission? What's your experience?

9:22:49 AM Atty Hughes Kentucky Frontier - witness Lyons
Note: Sacre, Candace And doing what? What positions?

9:23:04 AM Atty Hughes Kentucky Frontier - witness Lyons
Note: Sacre, Candace What's your background with natural gas pipeline safety?

9:23:14 AM Atty Hughes Kentucky Frontier - witness Lyons
Note: Sacre, Candace So, up until July of 2018, you had no involvement with natural gas pipeline safety?

9:23:24 AM Atty Hughes Kentucky Frontier - witness Lyons
Note: Sacre, Candace What's your training? Are you an engineer?

9:23:30 AM Atty Hughes Kentucky Frontier - witness Lyons
Note: Sacre, Candace What specific statute are you alleging that Frontier violated?

9:23:39 AM Staff Atty Park PSC
Note: Sacre, Candace I'm going to object to the extent it requests the witness to make a legal conclusion.

9:23:43 AM Chairman Schmitt
Note: Sacre, Candace I don't think he asked for a conclusion. He's just asking for a citation of the statute.

9:23:47 AM Atty Hughes Kentucky Frontier
Note: Sacre, Candace I didn't. I just want to make sure we're talking – what statute we're referring to.

9:24:13 AM Atty Hughes Kentucky Frontier - witness Lyons
Note: Sacre, Candace Do you recall in that statute there is a statement or a reference to approximate location?

9:24:25 AM Atty Hughes Kentucky Frontier - witness Lyons
Note: Sacre, Candace Is that defined anywhere in the statutes or regulations?

9:24:38 AM Atty Hughes Kentucky Frontier - witness Lyons
Note: Sacre, Candace You said that Frontier failed to locate its facilities in these incidents. What do you mean by failed to locate?

9:25:12 AM Atty Hughes Kentucky Frontier - witness Lyons
Note: Sacre, Candace You agree that all of the pipes involved in these 13 incidents are nonmetallic without traceable wire?

9:25:39 AM Atty Hughes Kentucky Frontier - witness Lyons
Note: Sacre, Candace Is there a distinction in the marking requirements for nonmetallic pipe with tracer wire and nonmetallic pipe without tracer wire?

9:25:44 AM TECHNICAL DIFFICULTIES
Note: Sacre, Candace TECHNICAL DIFFICULTIES EXPERIENCED AT THIS POINT IN THE HEARING, RESULTING IN THE MALFUNCTIONING OF TIME STAMPS AND AUDIO/VIDEO RECORDING. PLEASE SEE SESSION 2 FOR CONCLUSION OF HEARING.

Date:	Type:	Location:	Department:
11/8/2019	Public Hearing\Public Comments	Hearing Room 1	Hearing Room 1 (HR 1)

Event Time	Log Event
10:14:45 AM	Session Started
10:14:46 AM	Chairman Schmitt Note: Sacre, Candace Witness is sworn.
10:14:47 AM	Chairman Schmitt Note: Sacre, Candace We're now back on the record. I think our technological problems, hopefully, have been solved. Mr. Park, are you ready to conduct examination of Mr. Burchett?
10:15:00 AM	Staff Atty Park PSC Note: Sacre, Candace Yes, I am, Your Honor.
10:15:03 AM	Staff Atty Park PSC - witness Burchett Note: Sacre, Candace Direct Examination. Please state your name and business address for the record.
10:15:17 AM	Staff Atty Park PSC - witness Burchett Note: Sacre, Candace And what is your occupation?
10:15:25 AM	Staff Atty Park PSC - witness Burchett Note: Sacre, Candace And are you affiliated with Jigsaw Enterprises?
10:15:28 AM	Staff Atty Park PSC - witness Burchett Note: Sacre, Candace And what is your position with Jigsaw Enterprises?

10:15:32 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace What does Jigsaw Enterprises do?

10:15:56 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace Are you familiar with work that Jigsaw Enterprises was doing in Wayland, Kentucky, in February 2019?

10:16:09 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace And could you please describe what work Jigsaw Enterprises was doing?

10:16:28 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace Is it still going on, or have you all completed that work?

10:16:33 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace How long were you all on site?

10:16:44 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace Were there any other excavators on site or anyone that was working on site with you all?

10:16:56 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace And that subcontractor was T&M?

10:17:04 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace Did Jigsaw Enterprises obtain a dig ticket for this project?

10:17:16 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace And are you aware of the incident of excavation damage that occurred on February 4, 2019, that occurred at 1st River Street in Wayland?

10:17:27 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace Could you please describe that damage in that incident?

10:17:49 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace Was that line marked in any way with tape or flags?

10:17:57 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace Do you recall if, at the time this damage occurred, whether that dig ticket had expired? Had that 21 days expired?

10:18:07 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace And did Jigsaw Enterprises request that that be renewed?

10:18:13 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace Did Jigsaw Enterprises have any interaction or communication with representatives of Frontier Gas on the site?

10:18:23 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace Did Frontier, at any time, mark with flags or paint any of its facilities in connection with your excavation work or your work?

10:18:41 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace And did Frontier indicate to you that they could not locate their lines in that area?

10:18:50 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace Do you recall when that was? Was that soon after the dig ticket was obtained?

10:18:56 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace Do you know why the metal pipeline was cut?

10:19:04 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace And that was cut with a saw?

10:19:14 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace So it's safe to assume whoever cut it didn't think there was natural gas in it, if they had any common sense?

10:19:21 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace If that area had been marked with yellow flags or yellow tape, do you think that would have communicated the existence of a gas pipeline?

10:19:32 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace And is this your only occasion to work with Frontier on on projects as far as locating gas lines?

10:19:46 AM Staff Atty Park PSC - witness Burchett
Note: Sacre, Candace Has there ever been any issue of pipelines not being marked or flagged?

10:19:55 AM Staff Atty Park PSC
Note: Sacre, Candace I have no further questions.

10:19:57 AM Chairman Schmitt
Note: Sacre, Candace Mr. Hughes?

10:20:00 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace Cross Examination. Were you on this site at any time when representatives of Frontier were there?

10:20:09 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace You personally were there?

10:20:15 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace Were you on this site at any time when representatives of Frontier were there?

10:20:28 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace When you were with Frontier, did they indicate that absolutely they could not locate the line or they could not tell you exactly where the line was?

10:20:47 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace Okay, then at any subsequent time – or how many times did you meet with Frontier at that site?

10:20:59 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace More than once?

10:21:01 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace Okay, and, each time, was there an effort made to locate the pipe?

10:21:09 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace And were you the one that actually dug, that dug around that pipe?

10:21:18 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace Do you know if someone from Frontier was there when that pipe was exposed?

10:21:29 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace Okay, but you don't know?

10:21:33 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace Once the pipe was exposed, did you or anyone from your company make an effort to contact any of the utility companies that had marked lines there to see what type of line that was?

10:21:55 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace Well, if you had, you obviously – somebody was obviously aware there's a pipe in the ground. Why – what would you normally do in that situation? If that pipe is in your way, would you make contact with the utility companies that had been out there to try to see whose line it was or whether it could be moved?

10:22:29 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace Well, no. I'm saying that once that line was exposed, you knew it was there?

10:22:34 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace You saw it, and it was undamaged?

10:22:37 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace Did you make any effort to find out whose line that was?

10:22:45 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace Okay. Do you have a – just as a matter of practice, does your company have a procedure for dealing with pipelines that are in the ground that are in your way and need to be moved? In other words, do you normally say that you contact whoever you think the line belongs to, the water company, the gas company, or whoever, to try to get it moved, or do you just move it yourself?

10:23:27 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace But you don't know if you made that effort in this situation?

10:23:31 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace So were any other representatives of utility companies on site during any of the excavation other than Frontier?

10:23:45 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace Were they there after the line had been exposed?

10:23:53 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace Yeah, were any of the other utility representatives there after that line had been exposed?

10:24:00 AM Atty Hughes Kentucky Frontier - witness Burchett
Note: Sacre, Candace Okay, but you made no effort or representatives of your company or subcontractor made no effort, as far as you know, to contact any of the utility companies to find out whose line that was and whether it was an active line?

10:24:18 AM Atty Hughes Kentucky Frontier
Note: Sacre, Candace Okay, that's all I have.

10:24:20 AM Chairman Schmitt
Note: Sacre, Candace Mr. Cicero?

10:24:22 AM Vice Chairman Cicero - witness Burchett
Note: Sacre, Candace Examination. You indicated that "when we discovered the pipeline. . ." Does "we" mean Jigsaw's crew or the subcontractor's crew, or who discovered the line?

10:24:49 AM Vice Chairman Cicero - witness Burchett
Note: Sacre, Candace So whoever it was would still fall under Jigsaw's responsibility?

10:24:55 AM Vice Chairman Cicero - witness Burchett
Note: Sacre, Candace Do you know who actually did the cutting? Was it Jigsaw or the subcontractor?

10:25:05 AM Vice Chairman Cicero - witness Burchett
Note: Sacre, Candace You were aware, as Mr. Hughes has pointed out, that there was a gas line somewhere in the area?

10:25:14 AM Vice Chairman Cicero - witness Burchett
Note: Sacre, Candace So, when you hit a metal line, what does Jigsaw typically do? As a matter of just kinda pursuing what the questioning before is, if you hit a metal line, do you assume it's water, gas? What is a metal line typically indicative of?

10:25:54 AM Vice Chairman Cicero - witness Burchett
Note: Sacre, Candace But, just in your experience, does metal indicate anything different than any other utility? I mean, can you rule out it's a fiber optic line? I mean, are you limited in what you believe the line is by the fact that it's metal?

10:26:16 AM Vice Chairman Cicero - witness Burchett
Note: Sacre, Candace So typically it's a water line?

10:26:19 AM Vice Chairman Cicero - witness Burchett
Note: Sacre, Candace And if you cut into the water line, as it appeared that was what was occurring, without knowing whether the water was shut off, wouldn't that create a water leak? I mean, I guess it doesn't matter what kind of composition was in the line, cutting into it would create some kind of leak, water, gas, whatever it was, right?

10:26:41 AM Vice Chairman Cicero - witness Burchett
Note: Sacre, Candace But, whomever it was, your crew or the subcontractor was still cutting into the line without knowing what was in the line?

10:27:03 AM Vice Chairman Cicero - witness Burchett
Note: Sacre, Candace I'm just curious what would happen, once you cut all the way through it and you broke that line, what you would do, depending on what it was. If it was water, would you call the water company and shut it off, or then you call the gas company and –

10:27:26 AM Vice Chairman Cicero - witness Burchett
Note: Sacre, Candace So I'm just curious. Wouldn't that be in a procedure the first thing you would do, would be to shut off the line before you cut into it?

10:27:39 AM Vice Chairman Cicero - witness Burchett
Note: Sacre, Candace Okay. Has your company changed your procedures or operating practices since the 811 enforcement has been more actively pursued?

10:27:55 AM Vice Chairman Cicero - witness Burchett
Note: Sacre, Candace How would you say it's been changed?

10:28:10 AM Vice Chairman Cicero
Note: Sacre, Candace I don't have any other questions.

10:28:12 AM Chairman Schmitt - witness Burchett
Note: Sacre, Candace Mr. Burchett, who was the subcontractor?

10:28:20 AM Chairman Schmitt - witness Burchett
Note: Sacre, Candace And out of where?

10:28:23 AM Chairman Schmitt - witness Burchett
Note: Sacre, Candace And that's where Jigsaw is located, correct?

10:28:25 AM Chairman Schmitt - witness Burchett
Note: Sacre, Candace Is that Rusty and Linda Justice? Is that Jigsaw?

10:28:29 AM Chairman Schmitt - witness Burchett
Note: Sacre, Candace Rusty Justice?

10:28:31 AM Chairman Schmitt - witness Burchett
Note: Sacre, Candace So how big was this? Was this a drainage line, draining surface water? Is that what it was?

10:28:41 AM Chairman Schmitt - witness Burchett
Note: Sacre, Candace And what was the diameter of the line?

10:28:52 AM Chairman Schmitt - witness Burchett
Note: Sacre, Candace Well, whatever, even the 12-inch would have been much larger than the gas line that was ultimately encountered, correct?

10:29:00 AM Chairman Schmitt - witness Burchett
Note: Sacre, Candace Which would have been, what? A couple of inches maybe or –

10:29:04 AM Chairman Schmitt - witness Burchett
Note: Sacre, Candace Would it have been possible to have dug underneath this line and laid the drainage pipe without cutting the pipe?

10:29:24 AM Chairman Schmitt - witness Burchett
Note: Sacre, Candace Did Jigsaw have a supervisor on site, somebody who was – or was it just the subcontractor's people?

10:29:39 AM Chairman Schmitt - witness Burchett
Note: Sacre, Candace Okay, but Jigsaw didn't have someone on site? That was left to the third-party contractor? Is that correct or incorrect?

10:29:50 AM Chairman Schmitt - witness Burchett
Note: Sacre, Candace Okay. Well, you don't know if that happened when this was cut into, correct?

10:29:57 AM Chairman Schmitt - witness Burchett
Note: Sacre, Candace Do you know if anybody at Jigsaw ever spoke to the contractor about having cut through the line to find out why someone would do that?

10:30:13 AM	Chairman Schmitt - witness Burchett Note: Sacre, Candace	They didn't tell you they sawed through it?
10:30:24 AM	Chairman Schmitt Note: Sacre, Candace	I don't have any further questions. Anything else, Mr. Park?
10:30:28 AM	Staff Atty Park PSC Note: Sacre, Candace	Just a few.
10:30:30 AM	Staff Atty Park PSC - witness Burchett Note: Sacre, Candace	Redirect Examination. You indicated that representatives from Frontier were on site intermittently in this project, is that correct?
10:30:39 AM	Staff Atty Park PSC - witness Burchett Note: Sacre, Candace	Was there ever any attempt by Frontier to locate and mark the lines that you're aware of? Did they attempt to dig it up to find it or use ground-piercing radar or anything like that?
10:30:54 AM	Staff Atty Park PSC - witness Burchett Note: Sacre, Candace	And who at Jigsaw is responsible for line-locate requests?
10:31:07 AM	Staff Atty Park PSC - witness Burchett Note: Sacre, Candace	Do you know why Jigsaw Enterprises did not request a renewal of its dig ticket?
10:31:31 AM	Staff Atty Park PSC - witness Burchett Note: Sacre, Candace	They knew you were still on site, excavating?
10:31:34 AM	Staff Atty Park PSC - witness Burchett Note: Sacre, Candace	So, in your opinion, there wasn't really any purpose to be achieved by submitting another locate request?
10:31:41 AM	Staff Atty Park PSC - witness Burchett Note: Sacre, Candace	But you do understand now that that is an obligation under the Act?
10:31:45 AM	Staff Atty Park PSC Note: Sacre, Candace	I have no further questions.
10:31:47 AM	Chairman Schmitt Note: Sacre, Candace	Mr. Hughes?
10:31:48 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	No, sir.
10:31:48 AM	Chairman Schmitt Note: Sacre, Candace	Commissioner Cicero?
10:31:49 AM	Vice Chairman Cicero Note: Sacre, Candace	No, sir.
10:31:50 AM	Chairman Schmitt - witness Burchett Note: Sacre, Candace	Examination. The only thing I would add, Mr. Burchett, is I don't know if anybody at your company keeps track of any of the cases that the Commission decides on this dig law, but I'd suggest somebody might think about reading the opinion that's going to come out here because you should have renewed the request, in my opinion, and given the operator an opportunity to come. An operator is not always going to be there. I can't fathom why someone would saw through a gas line rather than contacting somebody to try to find out who owned it. But, in any event that's just me.
10:32:30 AM	Chairman Schmitt Note: Sacre, Candace	Any other questions for this witness?
10:32:32 AM	Staff Atty Park PSC Note: Sacre, Candace	No, Your Honor.
10:32:33 AM	Chairman Schmitt Note: Sacre, Candace	May Mr. Burchett be excused for good?
10:32:34 AM	Staff Atty Park PSC Note: Sacre, Candace	Yes,
10:32:36 AM	Chairman Schmitt Note: Sacre, Candace	Okay. You may step down, and you're excused, sir. Thank you.

10:32:41 AM	Chairman Schmitt Note: Sacre, Candace	Do you have any other witnesses, Mr. Park?
10:32:45 AM	Staff Atty Park PSC Note: Sacre, Candace	Not on this case, Your Honor.
10:32:46 AM	Chairman Schmitt Note: Sacre, Candace	Mr. Hughes, do you have witnesses?
10:32:48 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Your Honor, I do, and, just as a matter of procedure to try to simplify things, would it be better to put the facts on for this -
10:33:00 AM	Chairman Schmitt Note: Sacre, Candace	I think so -
10:33:01 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	- next case, and then my witnesses have generic testimony that applies to both cases and then specific testimony to each of the two cases here, rather than going through two steps?
10:33:15 AM	Chairman Schmitt Note: Sacre, Candace	- or you could put on your fact witness for this case and then reserve your others to finish the other case, and then incorporate it by reference.
10:33:26 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	If that's your -
10:33:27 AM	Chairman Schmitt Note: Sacre, Candace	Why don't you just go ahead and maybe the best thing to do is just put on your fact witness for this case, and then when your other witnesses, your company executives, testify, we could just incorporate by reference what they've done in this case.
10:33:42 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	That's fine, whatever is your preference.
10:33:45 AM	Chairman Schmitt Note: Sacre, Candace	We'll do the orders separately, but it is complicated. You can do it any way you want. It's up to you, but I don't think you need to do that if you want to just call your fact witness.
10:33:59 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	That's fine, okay, all right. Has the staff rested?
10:34:04 AM	Staff Atty Park PSC Note: Sacre, Candace	Yes.
10:34:08 AM	Chairman Schmitt Note: Sacre, Candace	Witness is sworn.
10:34:15 AM	Chairman Schmitt Note: Sacre, Candace	Mr. Hughes?
10:34:16 AM	Atty Hughes Kentucky Frontier - witness Harris Note: Sacre, Candace	Direct Examination. Would you state your name and business address?
10:34:33 AM	Atty Hughes Kentucky Frontier - witness Harris Note: Sacre, Candace	What is your position with Frontier Gas?
10:34:41 AM	Atty Hughes Kentucky Frontier - witness Harris Note: Sacre, Candace	And how long have you had that position?
10:34:48 AM	Atty Hughes Kentucky Frontier - witness Harris Note: Sacre, Candace	How long have you worked for Frontier?
10:35:01 AM	Atty Hughes Kentucky Frontier - witness Harris Note: Sacre, Candace	Okay. Are you responsible for responding to or coordinating Frontier's efforts on the 8-1-1 locate requests?
10:35:16 AM	Atty Hughes Kentucky Frontier - witness Harris Note: Sacre, Candace	Generally, can you describe what Frontier's procedures are when it receives an 8-1-1 request?

10:35:58 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace In this specific case, did you go out and meet with the contractor at the location of the dig site?

10:36:13 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Okay, and is that generally what you do on all 811 requests? You meet on site with the contractor?

10:36:23 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace There was testimony from Mr. Burchett that the company indicated it could not locate its pipeline on this site. Can you explain what the company does when it goes on site and what efforts it makes to locate the pipes?

10:37:28 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace But you did not put paint markings down on this location?

10:37:33 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Could you identify within a defined area where the pipe would be located?

10:37:45 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Okay, but, in this specific case, were you able to notify the contractor of an area where you believed the pipeline was located?

10:37:59 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace And what was the span of the area that you indicated the pipeline could be located? Was it a foot, ten feet?

10:38:16 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Were you the one on site of this particular incident that Mr. Burchett described?

10:38:26 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Who was?

10:38:32 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Does he work under you, under your supervision?

10:38:37 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace So he has reported to you the information about this incident?

10:38:43 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Do you know if anyone from Frontier was on site when the pipelines was exposed?

10:38:53 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace You don't know?

10:39:03 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace How long did the excavation in this area occur? Was it over a period of days or weeks?

10:39:14 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Weeks?

10:39:16 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Was there someone from Frontier there periodically?

10:39:22 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace When the pipe was exposed by the excavator, was Frontier notified?

10:39:31 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace When was Frontier first aware that a pipe had been damaged at the site?

10:39:51 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Did Frontier respond to that call?

10:39:55 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Did you personally respond?

10:39:56 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Who did?

10:40:00 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace What action did Frontier take when it got to the site of the leak?

10:40:17 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace How long do you think it took you to get to the site after you were notified of the cut?

10:40:30 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace What size pipeline was this that was cut?

10:40:43 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Okay. Did you go on site – once the pipe had been cut, did you go on site to see what had occurred?

10:40:54 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Do you know if there were other utility facilities near that gas pipeline?

10:41:01 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace How close were they?

10:41:06 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Did the contractor or the excavator that was there indicate why the pipe was cut?

10:41:16 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Was there any damage to any property or anything in the area? There was no explosion or fire?

10:41:26 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace What was the pressure on that pipe? Do you know?

10:41:41 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace You said that, at the time of this incidence, Frontier didn't have the equipment to locate, I believe you said. Since that time, has Frontier acquired additional equipment to assist in locating its underground facilities?

10:42:10 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Can you describe some of those pieces of equipment that you now have?

10:42:47 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Of '19?

10:43:05 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Why didn't that equipment then locate this pipeline if it was steel? It was steel, right?

10:43:51 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Are there other pieces of equipment that you've acquired recently that also assist in locating pipe?

10:44:14 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Explain what Frontier does when it goes on site to attempt to locate a nonmetallic pipe without tracer wire.

10:45:07 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace How accurate is that process?

10:45:22 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Since you've been using that, have there been situations where you've been unable to locate a pipe?

10:45:56 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace But, if it's a steel pipe what – is there an alternative way to locate that steel pipe?

10:46:11 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace And what is that?

10:46:36 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace In many of these cases, it's been reported that Frontier told the contractor that the line could not be located. Is it true the line absolutely could not be located or it could not be located within a specifically defined area of 18 inches or 24 inches?

10:47:10 AM Atty Hughes Frontier - witness Harris
Note: Sacre, Candace Okay. When you're on site with a contractor, what do you do to notify the contractor of where Frontier's facilities are located?

10:47:30 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace And, in those instances where you have shown the contractor where the pipeline is located, has that been fairly accurate?

10:47:46 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace And have the contractors been able to avoid hitting our pipelines when you have been there to show them the approximate location of the facilities?

10:48:04 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace How many – for the nonmetallic plastic, nonmetallic pipe that doesn't have tracer wire, typically, what's the age of that pipe? Is that pipe that Frontier has installed, or is that pipe that was installed by prior owners of the companies that Frontier ultimately purchased?

10:48:51 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Is Frontier installing any nonmetallic pipe currently?

10:49:00 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Does it include tracer wire?

10:49:02 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace So everything installed within the last five years has tracer wire?

10:49:14 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace And that is locatable with your equipment?

10:49:20 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Is Frontier taking any steps to mark nonmetallic pipe without tracer wire as it locates those facilities?

10:49:51 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Approximately how many miles of pipe does Frontier have?

10:49:59 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace How many employees does Frontier have assigned to pipe locates, 8-1-1 responses?

10:50:13 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace And are they assigned full time to locates?

10:50:25 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace They respond on an as-need basis to locates?

10:50:32 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Are there situations where there've been line breaks where Frontier is unaware of who caused the break?

10:50:44 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace As far as you know, has Frontier responded to every 8-1-1 notice that it has received?

10:51:06 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace In any of the situations where you were on site and told the contractor that you couldn't specifically locate the pipe but it was within a general area, did any of the contractors hand dig that area to locate the pipe?

10:51:32 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace And were they able to locate the pipe within the area you indicated?

10:51:37 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Has Frontier ever excavated an area for a contractor to locate the pipe?

10:51:53 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace And have you located the pipe for the contractor?

10:51:57 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Are there situations – you say a spot situation. Are there situations where a contractor is digging perpendicular to a line so that their dig is within a fairly contained area versus a long vertical dig along a right of way?

10:52:40 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Is one more difficult to locate than the other?

10:52:53 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace When you say a big project, do you mean – what do you mean by a big project?

10:53:19 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace If you have pipe within, let’s say, an easement along a highway, is the pipe consistently located within, say, a 24-inch right of way along the highway?

10:53:44 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace So, when you go out and locate a pipe for a contractor along one of these projects, do you walk the area with the contractor and indicate for the length of that project where your line is?

10:54:23 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Did you hear this morning, there was some testimony about marking within an 18-inch area of the center point of the pipeline? Were you here when –

10:54:38 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace If you know the general area of the pipeline but you don’t know specifically, you can’t locate it specifically with your equipment, is there a danger in marking an 18-inch area of where that pipeline is located versus indicating a more general area of where that pipe is located?

10:55:05 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace And what’s the danger of that?

10:55:37 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace So do you believe, from your experience in dealing with these, that indicating a general area of where the pipe is provides greater safety from damage to the pipe than marking a specific area that you can’t know contains the pipe?

10:56:07 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace If you were required to mark an area, what would be the parameters of the marking? If 18 inches is not reasonable, what would you consider to be an appropriate area to mark?

10:56:33 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace In your experience in each of these cases of going on site and locating the pipe for the contractors, has your pipe been within, generally, that 48-inch corridor that you’ve been able to identify?

10:56:54 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Are there pipes that you just can’t locate?

10:57:09 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Well, are there pipes that you just don’t know where they are, where they’re located?

10:57:15 AM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace So you wouldn’t know where to dig to try to locate a pipe? Does that occur?

10:57:48 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	I think that's all.
10:57:50 AM	Chairman Schmitt Note: Sacre, Candace	Mr. Park?
10:57:53 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	Cross Examination. Regarding the pipeline that was damaged in this incident, was this part of a smaller gas system that Frontier has acquired in the past?
10:58:06 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	And what system was that?
10:58:11 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	And what were the conditions of the maps that Frontier acquired from East Kentucky Utilities?
10:58:29 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	So these maps indicated that this particular pipeline was adjacent to the road, is that correct?
10:58:37 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	And what do you know about the PE line that was inserted into this steel pipe? Do you know when that would have been done?
10:58:55 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	So they would have put in the inner pipeline, the PE pipeline?
10:59:10 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	How big of an area are we talking about as far as this drain tile project?
10:59:24 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	Several blocks?
10:59:28 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	Now, you indicated that you did not personally meet with representatives of Jigsaw or its subcontractor but that it was K. B. Rose?
10:59:52 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	Okay. What was Mr. Rose's role again?
11:00:05 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	And what kind of interaction did he have with Jigsaw on this project?
11:00:15 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	But he was not on the front end as far as telling them what general location?
11:00:20 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	Frontier was aware of the existence in this area, in the area of excavation, of steel pipeline, is that correct, at the time of this incident?
11:00:47 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	You knew there was steel pipeline there, where that work was going on, because you indicated that it had been dug up and tested electronically?
11:00:56 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	There had been no sections of this metal pipe that had been uncovered prior to this damage?
11:01:06 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	And so, based upon that, that was the metal pipe, right?
11:01:18 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	Electronically?
11:01:21 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	Is there a reason you did not locate electronically all of the steel pipeline?

11:01:47 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace You indicated that Frontier was able to locate some of this steel pipe maybe on an adjacent street, but it didn't keep going, so that limited the area you could locate. How did you know that that pipeline was there to test it electronically? Did you all expose it or –

11:02:10 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace The steel pipeline? I'm sorry. I'm very concerned. I thought you said a block over that you did test it.

11:02:24 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace How did it discover that steel pipeline that it tested?

11:02:35 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace All right. I'm going back to the steel pipeline that you've indicated you discovered and tested electronically to locate.

11:02:44 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace How did you know that that steel pipeline was there that you could test electronically?

11:02:51 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace The excavator exposed it?

11:03:10 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace You indicated, with respect to nonmetallic pipe that lacks tracer wire, you thought that a 48-inch zone was appropriate?

11:03:19 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace Did you all mark a 48-inch zone on this location?

11:03:27 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace And, this storm drain project, was it going to cross the pipeline based upon where you thought it was?

11:03:40 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace Are you familiar with Frontier's Operation and Maintenance Manual?

11:03:49 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace Are you familiar with "Section 691.1. General. Utilities have the duty to accurately locate and mark existing underground pipes, cable, and underground facilities. Accurate line locating and marking is necessary to prevent damage during excavation, both by the gas utility and others digging nearby?"

11:04:07 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace And do you agree with this statement?

11:04:11 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace And do you know when this was adopted?

11:04:17 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace And I believe you indicated that Frontier was aware that this drain project would be crossing where it understood the pipeline to be. Is that correct?

11:04:25 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace Are you familiar with Section 691.3 of the Operation and Maintenance Manual which states, "When a proposed excavation will cross or closely approach a gas line, the line must be exposed by hand to verify the actual location?" Does Frontier consistently adhere to that?

11:04:51 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace Did Frontier hand dig and verify the actual location of this pipeline at sections where it knew it was going to cross the drain tile project?

11:05:07 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace Well, did Frontier expose by hand digging its line where it knew the drain project was going to be crossing that line?

11:05:24 AM	Staff Atty Park PSC Note: Sacre, Candace	I have some more questions for this witness, but it's more regarding the general practices and procedures of Frontier, and I know we started getting into that a little bit, but if you're going to call Mr. Harris again –
11:05:37 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	I have covered the questions with him on the generic issues as well as the specific of this, so the only reason I would – I mean, I'm calling him back for the specifics on the Mountain issue, but if you have questions on the other things, I have no objection to your going ahead and doing it now.
11:05:57 AM	Staff Atty Park PSC Note: Sacre, Candace	I'd like to ask this witness a few questions about the Response to the First Data Request. Do you have a copy you can provide to the witness?
11:06:06 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	I do. Which question do you have, or which Response?
11:06:35 AM	Staff Atty Park PSC Note: Sacre, Candace	Response No. 8. No. I apologize. I'm sorry. Let's go to the Response to Request No. 3.
11:07:19 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	Will you identify this document, please?
11:07:44 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	And, if you'll turn to the second page of that, it says, "Approved August 14." Does that indicate to you that there's something on this page that was not part of the original plan, and, if so, could you identify what changes were made?
11:08:17 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	The Request asked for any revisions since 2016 so I'm trying to determine – page 2 indicates it was approved August 14; whereas, the other pages indicate the original June 2010, so I'm just trying to find out if you can identify the date and whatever changes, if any, were made on page 2.
11:08:38 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	Are you aware of any updates or changes to the plan that have been made since July of 2018?
11:08:59 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	We've spoken earlier about minimum federal pipeline regulations and, specifically, the requirement under 49 C.F.R. 192.614(a) for an operator to have a written underground damage prevention program, and is that set forth in the operations manual?
11:09:26 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	If you could turn to Response to Request No. 4, and that Response states that Frontier has "generic descriptions of procedures." What did you mean by that?
11:10:00 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	But no more specific? Does the manual accurately state Frontier's practices?
11:10:14 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	Under minimum federal safety standards, 49 CFR 192.614(c)(5), an operator's damage prevention plan must provide for temporary marking of buried pipe in the area of excavation before the activity begins, and does Frontier's written damage prevention program contain such a provision to provide for temporary markings?

11:10:45 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace And you acknowledge this is required by federal pipeline safety standards?

11:10:56 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace If you will look at, continue to look at, the Response to Question 4 of the First Data Requests, the request – well, let me back up. In response to Question No. 3, it looks like Frontier produced an actual copy of the O & M plan, but, in response to Question 4, it looks like it was cut and pasted, so, in a post-hearing data request, we'll want to get a complete copy of the plan.

11:11:34 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace Do you know why that was the case as far as cutting and pasted? Do you have –

11:11:51 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace Also, in response to Question No. 4, and I'm looking on the second page, it states that "With significant change in PSC practices, Frontier has developed a more specific 8-1-1 procedure." Is it your position that the change in the law changed Frontier's obligations under the Damage Prevention Act or just the enforcement side of it?

11:12:44 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace What are the more specific 8-1-1 procedures that Frontier has developed that's referenced in response to Request No. 4?

11:13:14 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace Frontier has not developed a more specific 8-1-1 procedure?

11:13:51 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace And, again, looking at the Response to Request No. 4, regarding the development of more specific 8-1-1 procedures, I'm reading in that paragraph, it says, "If the line is not locatable, the crew will make a determination if there is a point of entry for the locator wire that can be inserted and located. If a point of entry is not able to be found, the crew will then use other means to locate, such as pothole or excavating." Is this the new practice?

11:14:19 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace But this was not what Frontier was doing at the time of these incidents?

11:14:29 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace So you weren't locating by other means?

11:14:32 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace And when was the – was it a sonar truck?

11:14:39 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace Gas Tracker, and when was that, with the sound-wave technology?

11:14:50 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace If a line cannot be electronically located, is there a policy about how soon Frontier will get back out there and locate by other means?

11:15:14 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace We've heard testimony that one of the purposes of physically marking with flags or paint is to give notice of the presence and description of those lines for that entire 21-day valid dig ticket. Is that correct?

11:15:38 AM Staff Atty Park PSC - witness Harris
Note: Sacre, Candace Certainly. We've heard testimony earlier today regarding the purpose of requiring an operator to physically mark the location of the line with flag, paint, or otherwise, and that is because that'll last or it will be there when a representative of the operator is not there. Is that correct?

11:16:01 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	When Frontier determines that a line is not locatable electronically or there is nonmetallic and lacks tracer wire, does it inform the excavator of that?
11:16:15 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	Does it put any marking down that indicates a line is in the general area but it is not located?
11:16:40 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	As far as recordkeeping practices, what sort of record does Frontier keep, if any, of its responses to locator requests? Does it take photographs?
11:17:42 AM	Staff Atty Park PSC Note: Sacre, Candace	No further questions.
11:17:47 AM	Chairman Schmitt Note: Sacre, Candace	Commissioner Cicero?
11:17:48 AM	Vice Chairman Cicero - witness Harris Note: Sacre, Candace	Examination. There's been a lot of testimony regarding whether Frontier has a procedure or not, whether the procedures have been updated, and what kind of procedures are in place when it comes to marking a line. You're responsible for the 811 activity, is that correct?
11:18:14 AM	Vice Chairman Cicero - witness Harris Note: Sacre, Candace	And when is the last time that you were involved with updating the 811 procedure that Frontier has?
11:18:26 AM	Vice Chairman Cicero - witness Harris Note: Sacre, Candace	So whatever the procedure is has been in place – do you have an idea of how old it is?
11:18:39 AM	Vice Chairman Cicero - witness Harris Note: Sacre, Candace	Okay, so Frontier has had a procedure in place since 2010, and that's what you utilize now in order to respond to 811 dig requests, is that right?
11:18:57 AM	Vice Chairman Cicero - witness Harris Note: Sacre, Candace	Knowing that Frontier has many lines that are considered to be unlocatable, at least in the opinion of Frontier, and the lack of equipment apparently up until July of this year and knowing that there's been stricter enforcement of the 811 dig law, why wasn't Frontier more proactive in updating its procedures to be more in conformity with what the federal requirements are?
11:19:40 AM	Vice Chairman Cicero - witness Harris Note: Sacre, Candace	And I mention this from the perspective that, for example, in the last line of questioning, you were asked, if the line could be located, you mark it, as it should be, but, in the case of lines that are considered to be nonlocatable, you do not mark them; you have a meeting on site so that people know that it is in a general area. Is that right?
11:20:08 AM	Vice Chairman Cicero - witness Harris Note: Sacre, Candace	But federal requirements state that you must mark the line, is that correct?
11:20:24 AM	Vice Chairman Cicero - witness Harris Note: Sacre, Candace	Let's go to your statement that you made regarding, if you had your preference, you would like to see a 48-inch – you could do it within 48 inches, is that right?

11:20:45 AM Vice Chairman Cicero - witness Harris
Note: Sacre, Candace Okay, so the current regulations, at least if you want to consider the 18 inches, is 18 inches on either side of the outside of the pipe, which would mean that that's 36 inches plus whatever the diameter of the pipe is, so maybe two, to whatever the size is, but we're getting awful close to the 48 inches, aren't we?

11:21:15 AM Vice Chairman Cicero - witness Harris
Note: Sacre, Candace So, given your statement that 48 inches is adequate, what makes it so much different than the current regulations in providing a marking other than the statement that the company has made regarding we believe it's safer just to give a general area rather than to give a marking because it's safer for the excavator to realize he has a wide area to dig in?

11:22:30 AM Vice Chairman Cicero - witness Harris
Note: Sacre, Candace So I'm not sure that I understand what you're saying there, but it's 36 plus to 48 and, in that narrow band given the narrow shoulders that you're referring to, wouldn't that make the pipe, whether it's –

11:24:01 AM Vice Chairman Cicero - witness Harris
Note: Sacre, Candace Well, you do. It's just 18 plus it's either side or the other, and I'm not sure, when you mentioned 48 inches, whether you're talking about 48 inches to the left and 48 inches to the right or a total space of 48 inches.

11:24:17 AM Vice Chairman Cicero - witness Harris
Note: Sacre, Candace So then, instead of it being 18, you're saying 24. It's a difference of six inches on either side.

11:24:31 AM Vice Chairman Cicero - witness Harris
Note: Sacre, Candace Well, wouldn't – then even if you said 48 inches instead of 36 inches, then why wouldn't you have marked it at the 48-inch spot because I do believe the requirements state, subject to your interpretation, whether it's metallic or nonmetallic, that it should be marked?

11:25:11 AM Vice Chairman Cicero - witness Harris
Note: Sacre, Candace So the law basically has not changed other than the enforcement powers of the Commission, so the law to mark has not changed, only that the Commission – and I don't want to say just because of the prodding by the federal government. Obviously, that had something to do with it as far as having the legislators decided that action had to be taken because, from our perspective, it's always been a situation that should have been addressed prior to now, but it finally was addressed. And so the law that was in effect didn't change, only the enforcement responsibility of that law, and the Public Service Commission, obviously, was the one that was designated to provide that service. And so the only thing that has changed is the Public Service Commission is making a more concerted effort to look at the safety aspect and the fact that natural gas pipelines, by their nature, are subject to some very bad things happening if they're struck, and I think the law is designed in order to minimize that.

11:26:27 AM Vice Chairman Cicero - witness Harris
Note: Sacre, Candace So I'm going to go to my next question. Realizing that Frontier Natural Gas has a large number of lines that are "unlocatable," I would think that regardless of whether the Commission was actively enforcing or not that Frontier would want to know to a great degree a means to locate those lines. And I heard you say that you've got the sound detection and you've also got the metallic detection, and some of them may require more effort than the other. I'm not certain, but it doesn't sound like, in the case of this particular instance where it was a metal line, that Frontier actually utilized the metal detection in even that 48-inch width that you speak to to locate the metal line. Would it have been possible to locate if it was in the 48-inch area?

11:27:57 AM Vice Chairman Cicero - witness Harris
Note: Sacre, Candace So here's your issue. You have difficulty locating your line because of the age of the systems, but you also don't know the composition of the lines because they've been purchased and they're different systems originally, which again means that it may require more effort. But to determine whether it was metallic or nonmetallic, I'm learning that when there's a reference to nonmetallic, it could be nonmetallic that once had tracer lines but they've been broken or deteriorated which makes them nontraceable, and maybe there's a question as to the classification of that. I'm certain that there's some ambiguity that has to be cleared up, I guess, in future legislation, but that's subject to interpretation

11:28:54 AM Vice Chairman Cicero - witness Harris
Note: Sacre, Candace But I guess my comment is is that it doesn't appear that Frontier was aggressive enough to improve their line locate knowing their circumstances with having lines that were nonlocatable composition where that was undetermined and dealing with subcontractors that are just being given a general area of where it's located, and I guess my question to you would be what you would you do differently given the circumstances that Frontier has run into with these 13 cases? Have you done anything yet to rewrite the procedure manual or do anything along those lines?

11:29:48 AM Vice Chairman Cicero - witness Harris
Note: Sacre, Candace What do you think you should do to improve the situation?

11:29:52 AM Vice Chairman Cicero
Note: Sacre, Candace I don't have anything else, Chairman.

11:29:54 AM Chairman Schmitt- witness Harris
Note: Sacre, Candace Are all of Frontier's gas lines, to your knowledge, within the boundaries of an easement held by Frontier or one of its predecessor companies?

11:30:12 AM Chairman Schmitt- witness Harris
Note: Sacre, Candace And you know where the county and state right of way is, right? The county right of way, if there isn't an easement, it's from, what? The toe of the – it's a statutory definition?

11:30:23 AM Chairman Schmitt - witness Harris
Note: Sacre, Candace But here's what I don't understand. Unlike you, I don't think the statute is ambiguous at all. I think you have to mark a line whether it's metallic or nonmetallic. The difference is, if it's a nonmetallic line, you just have to give it your best guesstimate. It seems to me, if you know where your easement is and you mark it on either side of the easement, whether it's 48 inches or ten feet, at least somebody'd know they'd have to hand dig in that area, if it's reasonable.

11:31:06 AM	Chairman Schmitt- witness Harris Note: Sacre, Candace	Sometimes, you've got to mark on both sides.
11:31:13 AM	Chairman Schmitt - witness Harris Note: Sacre, Candace	You know, the question is what's a reasonable mark? And if you said, "Well, it's on the right-hand side of the road," that wouldn't do much good, would it?
11:31:24 AM	Chairman Schmitt- witness Harris Note: Sacre, Candace	But, if you knew it was "I can't mark, I don't know where it is, but I'm going to give it my best guess," and the statute requires you to mark, and you say, "Well, I can mark it within 48 inches or ten feet," somebody would know.
11:31:40 AM	Chairman Schmitt - witness Harris Note: Sacre, Candace	Now, if they hit it outside that, that's your loss, right?
11:31:45 AM	Chairman Schmitt- witness Harris Note: Sacre, Candace	But you're going to lose anyway maybe if you don't mark it somehow?
11:31:49 AM	Chairman Schmitt- witness Harris Note: Sacre, Candace	I mean, the whole issue is whose obligation is it? It's your line, and don't you think that you ought to know where your lines are or make a reasonable effort to find out?
11:32:00 AM	Chairman Schmitt Note: Sacre, Candace	I don't have any more questions.
11:32:03 AM	Chairman Schmitt Note: Sacre, Candace	Mr. Hughes, anything else?
11:32:05 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	I don't have anything.
11:32:06 AM	Chairman Schmitt Note: Sacre, Candace	All right. May this witness be excused?
11:32:08 AM	Staff Atty Park PSC Note: Sacre, Candace	Just one follow-up question.
11:32:10 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	Your testimony is that Frontier past practices was not marking at the 48 inches; they were concerned about a mismark and a strike or that 48 inches not actually covering where the line is, and, if there was a strike outside that 48 inches, Frontier would be responsible. Is that right?
11:32:31 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	So, by not putting down the 48 inches, you're reducing the possibility that Frontier could be held liable for the act?
11:32:41 AM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	So that would save money?
11:32:46 AM	Staff Atty Park PSC Note: Sacre, Candace	No further questions,
11:32:48 AM	Chairman Schmitt Note: Sacre, Candace	Anything further, Mr. Hughes?
11:32:51 AM	Chairman Schmitt Note: Sacre, Candace	You may step down. Thank you.
11:32:53 AM	Chairman Schmitt Note: Sacre, Candace	I guess we're going to incorporate by reference in this case the testimony from Mr. Shute and your other witnesses that are going to testify in the 00320 case, correct?
11:33:06 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Yes.

11:33:08 AM	Chairman Schmitt Note: Sacre, Candace	All right. Well, we can go another – I guess we can get started. You're finished; you've closed your case?
11:33:18 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	No. We have two – we've closed the fact case on –
11:33:24 AM	Chairman Schmitt Note: Sacre, Candace	On 00319?
11:33:25 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	On 00319, right. We have two witnesses, other witnesses, on generic issues for all cases.
11:33:34 AM	Chairman Schmitt Note: Sacre, Candace	That apply to both 00319 and 00320?
11:33:36 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Yes,
11:33:37 AM	Chairman Schmitt Note: Sacre, Candace	So I just said you want to incorporate, if you're going to put on that testimony – well, you can put it on now in this case or the other. It doesn't matter one way or the other.
11:33:44 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Yes, we can do it now.
11:33:46 AM	Chairman Schmitt Note: Sacre, Candace	Okay, let's just go do it now.
11:33:47 AM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Steve Shute.
11:34:02 AM	Chairman Schmitt Note: Sacre, Candace	Witness is sworn.
11:34:10 AM	Chairman Schmitt Note: Sacre, Candace	Mr. Hughes?
11:34:11 AM	Atty Hughes Kentucky Frontier - witness Shute Note: Sacre, Candace	Direct Examination. Would you state your name and your business address?
11:34:26 AM	Atty Hughes Kentucky Frontier - witness Shute Note: Sacre, Candace	And what is your association with Frontier Gas?
11:34:32 AM	Atty Hughes Kentucky Frontier - witness Shute Note: Sacre, Candace	And how long have you been a member of Frontier?
11:34:38 AM	Atty Hughes Kentucky Frontier - witness Shute Note: Sacre, Candace	What is your professional training and background?
11:34:50 AM	Atty Hughes Kentucky Frontier - witness Shute Note: Sacre, Candace	Have you been involved in other natural gas utilities other than Frontier?
11:35:25 AM	Atty Hughes Kentucky Frontier - witness Shute Note: Sacre, Candace	Have you been involved in 8-1-1 enforcement in other situations besides Frontier?
11:36:03 AM	Atty Hughes Kentucky Frontier - witness Shute Note: Sacre, Candace	So you're familiar with the federal regulations on the 8-1-1 requirements?
11:36:09 AM	Atty Hughes Kentucky Frontier - witness Shute Note: Sacre, Candace	There was a question to Mike Harris earlier about the updated procedures for Frontier's 8-1-1 responses. Do you have anything to add to that response?
11:37:18 AM	Atty Hughes Kentucky Frontier - witness Shute Note: Sacre, Candace	And, just generally, can you outline what changes have been made as a result of those discussions?

11:40:03 AM Chairman Schmitt - witness Shute
Note: Sacre, Candace Examination. Well, let me interrupt. What I don't understand is why anybody wouldn't – if I could identify the line within 48 inches or ten feet, why not do that? Then the burden goes on the contractor to hand dig. Now, if you say it's somewhere within a hundred yards, that's something different, but if you can get within a reasonable distance, I don't understand why somebody didn't think in advance, "Well, why don't we do this, and, that way, we've at least – we've done the best we can," rather than marking because, look, if somebody goes out and you say to me, "It's right in here," and then, later, I hit it, and it's your word against mine. You don't have a mark, you don't have a flag, and, a lot of times, there's areas where people say, if it isn't in writing or you don't have some evidence of it, maybe you didn't do it.

11:41:03 AM Chairman Schmitt - witness Shute
Note: Sacre, Candace That's all I'm saying. I just didn't understand why – when I was in college, I worked for gas companies. Of course, that was in the 1960s, and we hand dug everything. I don't think four feet or six feet is a great deal of trouble for an excavator, and, if it is, that's probably just their problem.

11:42:43 AM Vice Chairman Cicero - witness Shute
Note: Sacre, Candace Examination. So you have changed. You've changed your marking.

11:42:44 AM Chairman Schmitt- witness Shute
Note: Sacre, Candace Examination. You can even put down flags, can't you? You can use flags. Any kind of marking.

11:43:36 AM Atty Hughes Kentucky Frontier - witness Shute
Note: Sacre, Candace Direct Examination (cont'd). You mentioned two things. I'll follow up with the equipment first. Has Frontier recently invested in additional equipment to assist with the locates?

11:45:44 AM Atty Hughes Kentucky Frontier - witness Shute
Note: Sacre, Candace I guess, explain a little bit more what the Hydrovac does, how it operates, and about what does that cost?

11:46:19 AM Atty Hughes Kentucky Frontier - witness Shute
Note: Sacre, Candace Would that allow Frontier to actually hand dig, in a sense, more of these locates so that it would eliminate the potential for damage in future locates?

11:46:47 AM Atty Hughes Kentucky Frontier - witness Shute
Note: Sacre, Candace And did you say what it cost?

11:46:56 AM Atty Hughes Kentucky Frontier - witness Shute
Note: Sacre, Candace Is there a limit on what Frontier can invest in additional locate equipment versus what it's potentially liable for in fines?

11:48:02 AM Atty Hughes Kentucky Frontier - witness Shute
Note: Sacre, Candace Given the limitations that you have, do you think that Frontier is continuing to make efforts to address the issue the Commission has raised and to deal with the problems of these locates?

11:48:42 AM Atty Hughes Kentucky Frontier - witness Shute
Note: Sacre, Candace And what about additional employees? Have you assigned employees to specifically deal with the 811 issues?

11:49:09 AM Atty Hughes Kentucky Frontier - witness Shute
Note: Sacre, Candace There also was a question earlier this morning about Frontier's ability to locate its facilities with maps. Frontier, over a number of years, has purchased 12 small gas companies. Did you receive maps of the facilities of those companies that you purchased?

11:51:11 AM Atty Hughes Kentucky Frontier - witness Shute
Note: Sacre, Candace Are the maps – and these are maps that we filed in response to a Commission Data Request in this case?

11:51:21 AM Atty Hughes Kentucky Frontier - witness Shute
Note: Sacre, Candace Given the scale and the detail of those maps, is it possible for Frontier to actually take those maps out to a site and locate a facility within a reasonable parameter of where the excavation is occurring?

11:52:34 AM Atty Hughes Kentucky Frontier - witness Shute
Note: Sacre, Candace Is GIS the same as GPS?

11:53:13 AM Atty Hughes Kentucky Frontier - witness Shute
Note: Sacre, Candace I think Mike said you had about 360 miles of pipe. How much of that system is currently in your GIS mapping system?

11:53:45 AM Atty Hughes Kentucky Frontier - witness Shute
Note: Sacre, Candace Do you think there is anything else that the company can do to address the issues that the Commission has raised in these cases?

11:55:52 AM Atty Hughes Kentucky Frontier - witness Shute
Note: Sacre, Candace Given the company's response to the Commission's actions, what is the effect on the company operationally and financially to additional penalties for future breaks?

11:57:16 AM Atty Hughes Kentucky Frontier - witness Shute
Note: Sacre, Candace Is it possible to eliminate every line break? Given the company's ability to locate its facilities with the maps or GIS, is it possible to eliminate all of these incidents?

11:58:36 AM Atty Hughes Kentucky Frontier
Note: Sacre, Candace That's all I have.

11:58:39 AM Chairman Schmitt
Note: Sacre, Candace Mr. Park?

11:58:44 AM Staff Atty Park PSC - witness Shute
Note: Sacre, Candace I'm going to turn back to the written damage prevention program, and we've heard testimony that the operation manual contains generic description of the program. Is the program required by federal regulation in the operating and maintenance manual, or is there some other written document?

11:59:09 AM Staff Atty Park PSC - witness Shute
Note: Sacre, Candace And we've referenced or you've discussed some new procedures and approaches that Frontier has looked at and adopted with the increased enforcement of the Act. Are – these new policies and practices that Frontier has considered and developed, are they in written form? Have they been officially adopted?

12:00:46 PM Vice Chairman Cicero - witness Shute
Note: Sacre, Candace Examination. If I can interject here for one second, you said so when you locate your line, but I think that's the biggest question is are you locating the line when you don't mark it either in a corridor or by a single line but leave it open to interpretation by saying in that general area. I mean, this is the biggest question, and this isn't about Kentucky statute, when you said it doesn't require marking. This is under PHMSA which does require marking, and I think the crux of this whole 13 cases we have here is whether you're actually marking or not.

12:01:29 PM Vice Chairman Cicero - witness Shute
Note: Sacre, Candace I guess then there's a big gap here in interpretation of what's required and not required.

12:01:52 PM	Chairman Schmitt - witness Shute Note: Sacre, Candace	I don't know whether it's necessary to go on with all of this about your procedures or not. I don't think so. All I know is KRS 367.4909 (6)(c), which talks about "An operator shall, upon receiving an emergency locate request or a normal excavation locate request, unless permanent facility markers are provided, provide temporary markings to inform an excavator of the ownership and approximate location. . ." It doesn't say what approximate location is. That's a reasonableness test, in my view.
12:02:30 PM	Chairman Schmitt - witness Shute Note: Sacre, Candace	If you go over here on "approximate location," it doesn't exclude, (11)(b) doesn't exclude, nonmetallic facilities without tracer wire from the following statute which requires marking. It doesn't make sense not to mark to me, but I think we ought to move on, if we can, because I don't think your policies and procedures –
12:03:16 PM	Chairman Schmitt - witness Shute Note: Sacre, Candace	I tell you what, I think, when we have an Order, we'll probably say, so that everybody in the world will know, mark a corridor. You can mark a straight line, but you can mark a corridor.
12:03:28 PM	Chairman Schmitt - witness Shute Note: Sacre, Candace	You ought to mark a corridor if you don't know where the line is.
12:03:49 PM	Chairman Schmitt- witness Shute Note: Sacre, Candace	One thing that you need to know and everybody, we don't talk to Staff about this, all right? We completely separate ourselves from the Staff, and they don't know where we are, and we don't know where they are, so we don't even know what communications they've had with you other than you got this Incident Report that's attached to the Initiating Order. We draft the Orders ourselves or, at least, I have.
12:04:17 PM	Chairman Schmitt - witness Shute Note: Sacre, Candace	But, yeah, I understand, and I understand your position, too. It is a kind of risk analysis situation. I mean, I think buying up these small gas companies, as you all did, was a good thing for the public. In a lot of ways, too, I mean, you made a risk analysis, and, in a lot of ways, you bought a pig in a poke, and then, sometimes, you've got to say, "Well, I got a deal with that," you know.
12:04:52 PM	Chairman Schmitt Note: Sacre, Candace	Okay. Mr. Park, I don't think we ought to go on. I mean, I know, with operating manuals, the Commission regulates Frontier, but that ought to be how you get this, you know, updates maybe, rather than in this case, which is basically a civil penalty/fine situation.
12:05:22 PM	Staff Atty Park PSC - witness Shute Note: Sacre, Candace	I'm going to ask you a few questions about Frontier's Response to Staff's First Data Request.
12:05:28 PM	Staff Atty Park PSC Note: Sacre, Candace	Does the witness have a copy of that?
12:05:36 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Which number, John?
12:05:39 PM	Staff Atty Park PSC Note: Sacre, Candace	Let's start with Response to Request No. 8.
12:05:50 PM	Staff Atty Park PSC - witness Shute Note: Sacre, Candace	That Response indicates that Frontier has mapped more than 95 percent of the mains for every system that has paper maps, is that correct, and the two subsystems you referred to are the ones that lacked paper maps?

12:06:05 PM	Staff Atty Park PSC - witness Shute Note: Sacre, Candace	And what is Frontier doing with respect to those two subsystems to map?
12:06:31 PM	Staff Atty Park PSC - witness Shute Note: Sacre, Candace	And I, certainly, am not a – far from a GIS or GPS expert, so you may have to help me some on this, but I'd like to get a better understanding of what Frontier has done since it's acquired these 12 systems. Specifically, you indicated, when you acquired the systems, you got blueprints or as-built maps, if you will, from the selling entity, is that correct?
12:06:57 PM	Staff Atty Park PSC - witness Shute Note: Sacre, Candace	And have been converting those to GSI files, is that correct?
12:07:04 PM	Staff Atty Park PSC - witness Shute Note: Sacre, Candace	And when was this process started and completed?
12:09:01 PM	Staff Atty Park PSC - witness Shute Note: Sacre, Candace	Was that process done in house? You mentioned a couple of experts in house?
12:09:19 PM	Staff Atty Park PSC - witness Shute Note: Sacre, Candace	And the Response indicates that Frontier estimates it only has 20 percent of service lines mapped. Is that based upon where you can see their meters, mapped meters, and there's no service line, or how did Frontier determine that?
12:10:04 PM	Staff Atty Park PSC - witness Shute Note: Sacre, Candace	The Jamison Systems?
12:10:09 PM	Staff Atty Park PSC - witness Shute Note: Sacre, Candace	And what prompted Frontier to acquire that, the Jamison Systems?
12:10:46 PM	Staff Atty Park PSC - witness Shute Note: Sacre, Candace	And, turning to Frontier's Response to Staff's Request No. 8, it indicates that expenditures to date on GIS data acquisition and mapping has been about \$7100 for GIS licenses and about \$40,000 in labor and contractor costs. Do you have any updated figures, or is that still roughly accurate?
12:11:40 PM	Vice Chairman Cicero - witness Shute Note: Sacre, Candace	Examination. So are you charging the GIS costs/internal labor to the PRP program?
12:11:54 PM	Vice Chairman Cicero Note: Sacre, Candace	Go ahead.
12:11:57 PM	Staff Atty Park PSC - witness Shute Note: Sacre, Candace	The \$40,000 in labor and contractor costs, do you know how that's broken down?
12:12:05 PM	Chairman Schmitt Note: Sacre, Candace	I hate to interject, Mr. Park, but this is a case involving a damage claim, and I think that other information may be necessary, but could we do that in the context of another case, the PRP or a rate case?
12:12:30 PM	Staff Atty Park PSC - witness Shute Note: Sacre, Candace	What is the status of the effort to acquire the vac trailer?
12:13:00 PM	Staff Atty Park PSC Note: Sacre, Candace	I have no further questions.
12:13:02 PM	Chairman Schmitt Note: Sacre, Candace	Commissioner Cicero, questions?
12:13:04 PM	Vice Chairman Cicero Note: Sacre, Candace	Just a couple.

12:13:07 PM	Vice Chairman Cicero - witness Shute Note: Sacre, Candace	Examination. Do you believe that Frontier has the financial wherewithal to operate a gas system?
12:13:13 PM	Vice Chairman Cicero - witness Shute Note: Sacre, Candace	You've implied, through questioning from counsel, that if the Commission were to mitigate the penalties that you would spend money on investment and finding lines and that, perhaps, if the Commission didn't do that, that there might not be enough money to invest in that type of equipment. My question is, do you believe that the Commission should mitigate penalties based on the financial condition of a gas system, or should it be applied consistently to all gas companies because they should have the financial wherewithal to operate a gas system?
12:13:42 PM	Chairman Schmitt	
12:14:41 PM	Vice Chairman Cicero Note: Sacre, Candace	I don't have any other questions.
12:14:42 PM	Chairman Schmitt Note: Sacre, Candace	I have no questions. Anything else, Mr. Hughes?
12:14:44 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	No, sir.
12:14:45 PM	Chairman Schmitt Note: Sacre, Candace	Mr. Park?
12:14:46 PM	Staff Atty Park PSC Note: Sacre, Candace	No further questions.
12:14:47 PM	Chairman Schmitt Note: Sacre, Candace	You may step down, sir. Thank you.
12:14:49 PM	Chairman Schmitt Note: Sacre, Candace	Do you have another witness?
12:14:50 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	No, sir, unless you all have questions for Mr. Oxford, we've covered everything.
12:14:55 PM	Chairman Schmitt Note: Sacre, Candace	Mr. Park, do you have questions?
12:14:58 PM	Staff Atty Park PSC Note: Sacre, Candace	No, no further questions. Just we still have the 00320 case questions.
12:15:04 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	So is he excused?
12:15:07 PM	Chairman Schmitt Note: Sacre, Candace	Yes, he's excused.
12:15:08 PM	Hearing Participants - General Discussions Note: Sacre, Candace	(Click on link for further discussion.)
12:15:36 PM	Chairman Schmitt Note: Sacre, Candace	And come back here at 1:15 and give you all an hour for lunch.
12:15:44 PM	Session Paused	
1:13:47 PM	Session Resumed	
1:13:48 PM	Chairman Schmitt Note: Sacre, Candace	We're now back on the record, and we'll begin the hearing in Case No. 2019-00320, Kentucky Frontier Gas, LLC, alleged violation of Underground Facility Damage Act.
1:14:08 PM	Chairman Schmitt Note: Sacre, Candace	Mr. Shute and Mr. Lyons testified in Case No. 2019-00319, and, for purposes of this hearing, the testimony of each is going to be incorporated by reference, correct?

1:14:23 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Correct.
1:14:25 PM	Chairman Schmitt Note: Sacre, Candace	And since the cases were consolidated and we can't apparently split up the video anyway, whatever record there is outside of your stipulation and the pleadings in the other files, this will be just one continuous record, all right?
1:14:42 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Okay.
1:14:45 PM	Chairman Schmitt Note: Sacre, Candace	Okay. Mr. Park, are you ready to proceed?
1:14:48 PM	Staff Atty Park PSC Note: Sacre, Candace	Yes, Division of Inspections calls John Gowins.
1:15:00 PM	Chairman Schmitt Note: Sacre, Candace	Mr. Gowins, we'll consider you to still be under oath since you were sworn in in the previous case, which has been consolidated.
1:15:14 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Direct Examination. Mr. Gowins, we've heard your background and how you investigate these incidents. Are you familiar with Incident No. 31384, involving damage at 31 Sycamore Addition Court in Forest Hills, Kentucky?
1:15:29 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	And did you investigate this incident?
1:15:33 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Describe your investigation and what you determined happened.
1:16:42 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	And Mountain Water, I take it, was the excavator in this?
1:16:48 PM	Staff Atty Park PSC Note: Sacre, Candace	May I approach, Your Honor?
1:16:50 PM	Chairman Schmitt Note: Sacre, Candace	Yes, you may.
1:17:18 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	And could you please identify this document?
1:17:29 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	And did you determine that his dig ticket covered the excavation in question in this incident?
1:17:35 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	And was this dig ticket valid or expired?
1:17:45 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Are you familiar with the Common Ground Alliance and its Best Practices Manual?
1:17:54 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	And how would you describe the manual?
1:18:08 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Prior to today's hearing, have you had an opportunity to review the manual and its guidance for newly-installed lines in areas of continuing excavation?
1:18:17 PM	Staff Atty Park PSC Note: Sacre, Candace	May I approach, Your Honor?
1:18:19 PM	Chairman Schmitt Note: Sacre, Candace	Yes, you may.
1:18:52 PM	Staff Atty Park PSC Note: Sacre, Candace	And, Mr. Chairman, I apologize. I neglected to ask for the dig ticket to be entered into evidence as PSC Exhibit 1.

1:19:00 PM	Chairman Schmitt Note: Sacre, Candace	Mr. Hughes, any objection?
1:19:12 PM	Chairman Schmitt Note: Sacre, Candace	Sustained. Let it be admitted as Exhibit 1.
1:19:14 PM	PSC EXHIBIT 1 Note: Sacre, Candace Note: Sacre, Candace	DIG TICKET 1901290214 DATED 01/29/2019. STAFF ATTY PARK PSC - WITNESS GOWINS.
1:19:17 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	And is this a copy of Best Practice 4.22?
1:19:24 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	And have you reviewed this practice?
1:19:28 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Describe what this practice entails.
1:20:04 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Did Frontier indicate to you that the gas service line that was hit was installed the day prior to the damage?
1:20:15 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	But subsequently did admit to that?
1:20:18 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	And they indicated it was a newly-installed line with the earth showing that it had been disturbed?
1:20:24 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	And, according to this practice, should that newly-installed line have been marked?
1:20:30 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	And was the line marked?
1:20:37 PM	Staff Atty Park PSC - witness Gowins Note: Sacre, Candace	Based upon your investigation, is it your opinion that Frontier was aware of this ongoing excavation?
1:20:45 PM	Staff Atty Park PSC Note: Sacre, Candace	I have no further questions.
1:20:47 PM	Chairman Schmitt Note: Sacre, Candace	Mr. Hughes?
1:20:50 PM	Atty Hughes Kentucky Frontier - witness Gowins Note: Sacre, Candace	Cross Examination. Is this Common Ground Alliance manual part of the Commission's regulations?
1:20:58 PM	Atty Hughes Kentucky Frontier - witness Gowins Note: Sacre, Candace	Is it part of the DOT regulation?
1:21:02 PM	Atty Hughes Kentucky Frontier - witness Gowins Note: Sacre, Candace	Has this Alliance Best Practices Manual been adopted by the Commission for any purpose?
1:21:09 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Your Honor, I move that we strike this. It's not anything that applies to Frontier in this matter. It's not part of the Commission's regulations, and it has no applicability to this case.
1:21:26 PM	Chairman Schmitt Note: Sacre, Candace	You don't think it has any evidentiary value?
1:21:30 PM	Staff Atty Park PSC Note: Sacre, Candace	Mr. Chairman, the defense, I understood, in this case was there was no need to mark because it was obvious where the line was, so the Division of Inspections offers this Best Practice to indicate that when you've got new construction in an area of – not only under the Best Practice but under the statute you've still got to mark it.

1:21:52 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	It may be a Best Practice for Common Ground, but it's not a requirement by this Commission for Frontier, so I would move that it's not relevant to the case. If it's admitted, I'd like to have a copy of the document.
1:22:10 PM	Chairman Schmitt Note: Sacre, Candace	I'll reserve a ruling on that until the end, but I guess the question is, will I hear from your witness on what a marking is? I don't know, but go ahead, Mr. Park. We'll reserve a ruling.
1:22:22 PM	PSC EXHIBIT 2 (NOT ADMITTED). Note: Sacre, Candace Note: Sacre, Candace	STAFF ATTY PARK PSC - WITNESS GOWINS. COMMON GROUND ALLIANCE BEST PRACTICE 4.22.
1:22:23 PM	Staff Atty Park PSC Note: Sacre, Candace	I have no further questions.
1:22:27 PM	Chairman Schmitt Note: Sacre, Candace	Oh, I'm sorry. Mr. Hughes has already undertaken his cross.
1:22:35 PM	Atty Hughes Kentucky Frontier - witness Gowins Note: Sacre, Candace	You didn't personally inspect this location? You just looked at the records that were provided? Is that correct?
1:22:45 PM	Atty Hughes Kentucky Frontier - witness Gowins Note: Sacre, Candace	Did you say that the 8-1-1 ticket was current when this event occurred?
1:22:53 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Okay. I have no other questions.
1:22:56 PM	Chairman Schmitt Note: Sacre, Candace	Commissioner Cicero, questions?
1:22:57 PM	Vice Chairman Cicero Note: Sacre, Candace	I have no questions.
1:23:02 PM	Chairman Schmitt - witness Gowins Note: Sacre, Candace	Examination. The newly-installed line, is it your understanding that's the line that was severed or broken by Mountain Water?
1:23:45 PM	Chairman Schmitt - witness Gowins Note: Sacre, Candace	I don't know why I thought, looking at the investigation information, that it was a service line that was damaged, but that's not true?
1:24:16 PM	Chairman Schmitt - witness Gowins Note: Sacre, Candace	Well, here, let me – the investigation, this is where I got confused, "On May 6, 2018, the excavator, Mountain Water's Waste Water Manager, Jamie Keathley, stated Kentucky Frontier Gas' Dallas (last unknown) was on site during excavation. Mr. Keathley stated that the main gas line was marked, but Kentucky Frontier Gas was unable to locate the one-inch service line. Mr. Keathley stated Dallas had no idea where the service line ran. He thought that the line ran behind the property at the above-noted location and was not mapped." Is that what you understand happened.
1:25:08 PM	Chairman Schmitt - witness Gowins Note: Sacre, Candace	So if there was digging, I mean, I'm just asking your understanding, I guess the best evidence is from somebody that was there, but where the digging occurred and the new line was installed by Frontier, that line was or was not damaged?
1:25:36 PM	Chairman Schmitt - witness Gowins Note: Sacre, Candace	That line was damaged?
1:25:41 PM	Chairman Schmitt Note: Sacre, Candace	Well, I guess we'll wait and see. I just didn't understand. What it looked like that they marked the main line, but they didn't mark the service line, but it was the service line that was installed that was damaged. Is that - that's not it? Well, let's wait and hear from –

1:26:06 PM	Chairman Schmitt Note: Sacre, Candace	And I don't have any further questions of Mr. Gowins.
1:26:09 PM	Staff Atty Park PSC Note: Sacre, Candace	I have no further questions.
1:26:11 PM	Chairman Schmitt Note: Sacre, Candace	You may step down, Mr. Gowins.
1:26:14 PM	Chairman Schmitt Note: Sacre, Candace	Call your next witness.
1:26:18 PM	Staff Atty Park PSC Note: Sacre, Candace	Division of Inspections has subpoenaed two individuals from Mountain Water District, Doug Scalf and Jamey Keathley. Mr. Scalf, who wants to go first? Mr. Scalf, all right.
1:26:40 PM	Chairman Schmitt Note: Sacre, Candace	Witness is sworn.
1:26:52 PM	Staff Atty Park PSC - witness Scalf Note: Sacre, Candace	Direct Examination. Please state your name and business address for the record.
1:27:02 PM	Staff Atty Park PSC - witness Scalf Note: Sacre, Candace	And what is your position with Mountain Water District?
1:27:12 PM	Staff Atty Park PSC - witness Scalf Note: Sacre, Candace	And, as supervisor on the water side, what is your responsibility with respect to the 8-1-1 obligations?
1:27:29 PM	Staff Atty Park PSC - witness Scalf Note: Sacre, Candace	And are you familiar with the incident which is the subject of this case which occurred at 31 Sycamore Addition Court on February 14, 2019?
1:27:40 PM	Staff Atty Park PSC - witness Scalf Note: Sacre, Candace	And what was this excavation going on here? What was this project?
1:27:47 PM	Staff Atty Park PSC - witness Scalf Note: Sacre, Candace	To install new lines?
1:27:50 PM	Staff Atty Park PSC - witness Scalf Note: Sacre, Candace	Please describe the incident as you know what happened.
1:28:12 PM	Staff Atty Park PSC - witness Scalf Note: Sacre, Candace	So it was not newly installed?
1:28:14 PM	Staff Atty Park PSC - witness Scalf Note: Sacre, Candace	So it was a different line?
1:28:17 PM	Staff Atty Park PSC - witness Scalf Note: Sacre, Candace	And that line was not marked?
1:28:21 PM	Staff Atty Park PSC - witness Scalf Note: Sacre, Candace	Did anyone from Frontier identify and describe that facility's location?
1:28:35 PM	Staff Atty Park PSC Note: Sacre, Candace	I have no further questions.
1:28:38 PM	Chairman Schmitt Note: Sacre, Candace	Mr. Hughes?
1:28:39 PM	Atty Hughes Kentucky Frontier - witness Scalf Note: Sacre, Candace	Was someone from Frontier on site when you were doing your excavation?
1:28:55 PM	Atty Hughes Kentucky Frontier - witness Scalf Note: Sacre, Candace	When you say you were around the main line, did Frontier indicate to you where that line was?
1:29:05 PM	Atty Hughes Kentucky Frontier - witness Scalf Note: Sacre, Candace	While you were digging around the main?

1:29:07 PM Atty Hughes Kentucky Frontier - witness Scalf
Note: Sacre, Candace And you didn't hit that line?

1:29:10 PM Atty Hughes Kentucky Frontier - witness Scalf
Note: Sacre, Candace And then, on the same day, did you hit the other line, or was it the next day?

1:29:18 PM Atty Hughes Kentucky Frontier - witness Scalf
Note: Sacre, Candace It was the same day?

1:29:20 PM Atty Hughes Kentucky Frontier - witness Scalf
Note: Sacre, Candace You continued to dig on that property, and you hit a service line going to the house on the property? Is that correct?

1:29:30 PM Atty Hughes Kentucky Frontier - witness Scalf
Note: Sacre, Candace And that's the line that he told you he didn't know was there?

1:29:36 PM Atty Hughes Kentucky Frontier - witness Scalf
Note: Sacre, Candace Had Frontier put in a new line on that property while you were there?

1:29:46 PM Atty Hughes Kentucky Frontier - witness Scalf
Note: Sacre, Candace The day before, they had put another line in?

1:29:49 PM Atty Hughes Kentucky Frontier - witness Scalf
Note: Sacre, Candace But that's not the line you hit?

1:29:51 PM Atty Hughes Kentucky Frontier - witness Scalf
Note: Sacre, Candace You hit a three-quarter-inch or whatever -

1:29:58 PM Atty Hughes Kentucky Frontier - witness Scalf
Note: Sacre, Candace - service line to the house?

1:30:10 PM Atty Hughes Kentucky Frontier
Note: Sacre, Candace That's all I have.

1:30:12 PM Chairman Schmitt
Note: Sacre, Candace Commissioner Cicero?

1:30:14 PM Vice Chairman Cicero - witness Scalf
Note: Sacre, Candace Examination. So, just to be clear, you missed the main?

1:30:18 PM Vice Chairman Cicero - witness Scalf
Note: Sacre, Candace You hit a line that you didn't know was there?

1:30:23 PM Vice Chairman Cicero - witness Scalf
Note: Sacre, Candace Which wasn't a new line that was installed the day before?

1:30:27 PM Vice Chairman Cicero - witness Scalf
Note: Sacre, Candace So there was three lines total?

1:30:31 PM Vice Chairman Cicero - witness Scalf
Note: Sacre, Candace One adequately described in terms of preventing you from hitting it, one totally unknown, and the third one that didn't come into play just happened to be installed the day before?

1:30:44 PM Vice Chairman Cicero
Note: Sacre, Candace Okay. I just wanted a clarification. Thank you.

1:30:48 PM Chairman Schmitt - witness Scalf
Note: Sacre, Candace Examination. So you were running water and sewer lines. Was it just - were you running a line to this double-wide trailer?

1:30:56 PM Chairman Schmitt - witness Scalf
Note: Sacre, Candace And that was your intent, and that's where you were going -

1:31:00 PM Chairman Schmitt- witness Scalf
Note: Sacre, Candace - to the same location that Frontier ran its line to, correct?

1:31:07 PM Chairman Schmitt - witness Scalf
Note: Sacre, Candace And you would have seen where Frontier's line was installed the day before?

1:31:15 PM Chairman Schmitt- witness Scalf
Note: Sacre, Candace So you didn't hit that?

1:31:16 PM	Chairman Schmitt- witness Scalf Note: Sacre, Candace	But there was another line going to the same trailer, or was it coming from somewhere else, or do you know?
1:31:32 PM	Chairman Schmitt- witness Scalf Note: Sacre, Candace	Okay, but it wasn't marked at all?
1:31:34 PM	Chairman Schmitt- witness Scalf Note: Sacre, Candace	And, when Dallas or whoever from Frontier was out there, they didn't mention that line to you as being one that was in your path?
1:31:45 PM	Chairman Schmitt- witness Scalf Note: Sacre, Candace	Not saying, "I didn't know where it was?" Just never mentioned it at all?
1:31:51 PM	Chairman Schmitt - witness Scalf Note: Sacre, Candace	Well, did he say there was a line in that vicinity, or did he just not mention it at all, the one that you hit?
1:32:01 PM	Chairman Schmitt Note: Sacre, Candace	All right. I don't have any further questions.
1:32:03 PM	Staff Atty Park PSC - witness Scalf Note: Sacre, Candace	Redirect Examination. Just for clarification, the line you hit, you said it might have been serving a house in the –
1:32:17 PM	Staff Atty Park PSC - witness Scalf Note: Sacre, Candace	Was it an active line? Do you know if it was still -
1:32:20 PM	Staff Atty Park PSC Note: Sacre, Candace	No further questions.
1:32:25 PM	Chairman Schmitt Note: Sacre, Candace	Mr. Hughes, anything?
1:32:26 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	No, sir.
1:32:27 PM	Chairman Schmitt Note: Sacre, Candace	You may step down, sir.
1:32:30 PM	Chairman Schmitt Note: Sacre, Candace	Call your next witness.
1:32:35 PM	Staff Atty Park PSC Note: Sacre, Candace	Division of Inspections rests.
1:32:39 PM	Chairman Schmitt Note: Sacre, Candace	Okay, all right. Mr. Hughes?
1:32:41 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Mike Harris.
1:32:46 PM	Chairman Schmitt Note: Sacre, Candace	Mr. Harris, we'll consider you still under oath from your testimony this morning.
1:32:56 PM	Atty Hughes Kentucky Frontier - witness Harris Note: Sacre, Candace	Direct Examination. You just heard the description of what occurred. Is there anything that you dispute about what was described as occurring in that incident?
1:33:30 PM	Atty Hughes Kentucky Frontier - witness Harris Note: Sacre, Candace	Do you agree that Frontier was not aware of the line that was hit?
1:33:40 PM	Atty Hughes Kentucky Frontier - witness Harris Note: Sacre, Candace	Okay. If you – when did that incident occur?
1:33:48 PM	Atty Hughes Kentucky Frontier - witness Harris Note: Sacre, Candace	Since then - you testified earlier that Frontier has obtained new equipment and additional locating stuff. What would you do differently today on that locate than occurred in February?
1:34:25 PM	Atty Hughes Kentucky Frontier - witness Harris Note: Sacre, Candace	With that piece of equipment, would you have been able to locate that line?

1:34:34 PM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Okay. Would you have marked - that line was not marked in February, correct?

1:34:45 PM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Okay. What's the practice today for Frontier for - if you went out there to locate that line, would it be marked?

1:35:50 PM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace If you had located using the locating equipment, would - that service line that was hit, would that have been a line that you could clearly identify the location?

1:36:07 PM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Okay, so how would you mark that line today?

1:36:22 PM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace What would be the marking parameters?

1:36:30 PM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Okay, so that's using electronic tracing equipment on a pipe that can be electronically traced today for all locates that you electronically find -

1:36:43 PM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace - you're putting that 18-inch marking down?

1:36:47 PM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Are you marking in any way currently and since July the lines that you can't electronically locate but know are in the vicinity?

1:37:01 PM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace How are you doing that?

1:37:19 PM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace What are the parameters of the markings that you are making currently on those situations?

1:37:26 PM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Using marker paint?

1:37:31 PM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace But there are still situations where you cannot locate the line that you're not marking, is that correct?

1:37:41 PM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Just to clarify, in July, you had a conference with the staff; you clarified some of these procedures on what needed to be done, correct?

1:37:56 PM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace Since July, is there anything else that the company has done to enhance its recordkeeping or its tracking of these line breaks?

1:39:02 PM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace You mentioned Heather. Is Heather an employee of Frontier?

1:39:07 PM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace What's her position?

1:39:16 PM Atty Hughes Kentucky Frontier - witness Harris
Note: Sacre, Candace For 8-1-1 compliance?

1:39:24 PM Atty Hughes Kentucky Frontier
Note: Sacre, Candace I think that's all.

1:39:28 PM Chairman Schmitt
Note: Sacre, Candace Commissioner Cicero, any questions?

1:39:30 PM Vice Chairman Cicero
Note: Sacre, Candace I do not have any questions.

1:39:32 PM Chairman Schmitt
Note: Sacre, Candace I have no questions.

1:39:35 PM	Chairman Schmitt Note: Sacre, Candace	Anything further from anybody?
1:39:37 PM	Staff Atty Park PSC Note: Sacre, Candace	Just one follow-up.
1:39:39 PM	Staff Atty Park PSC - witness Harris Note: Sacre, Candace	Cross Examination. The line that was hit, do you know which property that was serving?
1:40:09 PM	Staff Atty Park PSC Note: Sacre, Candace	I have nothing further.
1:40:13 PM	Chairman Schmitt Note: Sacre, Candace	Okay. May this witness be excused?
1:40:15 PM	Staff Atty Park PSC Note: Sacre, Candace	Yes, sir.
1:40:15 PM	Chairman Schmitt Note: Sacre, Candace	You may step down.
1:40:17 PM	Chairman Schmitt Note: Sacre, Candace	Mr. Hughes, do you have anything?
1:40:18 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	I have nothing else.
1:40:23 PM	Chairman Schmitt Note: Sacre, Candace	I know Mr. Park talked about a post-hearing data request, but this isn't the type of hearing – I mean, the evidence is closed as of the close of the hearing, so we shouldn't have any post-hearing data requests except maybe under unusual circumstances in a case like this, so we won't do that. But let's get a briefing schedule so if the parties want to file briefs, obviously, you may do so.
1:40:52 PM	Chairman Schmitt Note: Sacre, Candace	Mr. Park, since the burden of proof is on Division of Inspections, your brief, you'll have, basically, ten days from today, November 19th, by the end of midnight or something on the 19th.
1:41:12 PM	Chairman Schmitt Note: Sacre, Candace	Mr. Hughes, your brief will be due November 29th in response.
1:41:18 PM	Chairman Schmitt Note: Sacre, Candace	And, Mr. Park, you can have a reply brief of five days, until the 6th of December.
1:41:27 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Is Thanksgiving the 28th?
1:41:30 PM	Chairman Schmitt Note: Sacre, Candace	This is Friday, the 29th. (Click on link for further discussions.)
1:42:19 PM	Chairman Schmitt Note: Sacre, Candace	Let's go to the end of the day December 3rd. How's that?
1:42:25 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	That's fine.
1:42:26 PM	Chairman Schmitt Note: Sacre, Candace	Then, Mr. Park, I guess we'll give you to the 9th to complete yours, right?
1:42:33 PM	Staff Atty Park PSC Note: Sacre, Candace	All right.
1:42:50 PM	Chairman Schmitt Note: Sacre, Candace	Okay. Is there anything else?
1:42:54 PM	Chairman Schmitt Note: Sacre, Candace	Oh, I haven't ruled on this Best Practices. I'm going to sustain your objection, Mr. Hughes.

1:43:03 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	I know I'm probably muddying up muddy water already. If I file one brief, is that for all of the cases, or do I need to file 13 separate briefs?
1:43:20 PM	Chairman Schmitt Note: Sacre, Candace	No, you don't need to file 13. If there's something on all of the 11, if we're talking about those issues, you just address those issues that are a part to the stipulation, right?
1:43:31 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Right.
1:43:32 PM	Chairman Schmitt Note: Sacre, Candace	And then, on these two, you can have a separate one on each, or you can include them as different subdivisions of the same brief, if you choose to do so.
1:43:42 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	That's my preference.
1:43:43 PM	Chairman Schmitt Note: Sacre, Candace	Is that okay?
1:43:44 PM	Staff Atty Park PSC Note: Sacre, Candace	That'll work.
1:43:45 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	To try to keep all this in one package.
1:43:47 PM	Chairman Schmitt Note: Sacre, Candace	Well, so you don't have to keep repeating the same thing over and over. Then you can put it all into one document.
1:43:56 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Is it filed into every docket, or are we consolidating into one docket?
1:44:01 PM	Chairman Schmitt Note: Sacre, Candace	You just file one brief, and then we'll take care of basically probably consolidating it into - but there'll be a separate Order. You know, there may be an Order in the cases where you have, you know, 1 through 7, and they're all the same, they may all be in one Order, but, on each of these two, they'll probably be a separate one, but we'll deal with that. And, if need be, we can have a telephone conference and talk about it before we're done, whatever is convenient.
1:44:31 PM	Atty Hughes Kentucky Frontier Note: Sacre, Candace	Okay, that's fine.
1:44:35 PM	Chairman Schmitt Note: Sacre, Candace	If there's nothing else then, it has been sort of entertaining, this hearing is adjourned. Thank you.
1:44:50 PM	Session Ended	



Exhibit List Report

08Nov2019

**Damage Prevention Act - Kentucky
Frontier Gas LLC (Kentucky
Frontier)**

Name:**Description:**

PSC Exhibit 1.

Dig Ticket 1901290214 Dated 01/29/2019.

PSC Exhibit 2 (NOT ADMITTED) Common Ground Alliance Best Practice 4.22.

NORMAL NOTICE

Ticket : 1901290214 Date: 01/29/2019 Time: 08:07 Oper: CGARDNER Chan:000

State: KY Cnty: PIKE City: BELFRY
Subdivision:

Address : 31

Street : SYCAMORE ADDITION CT

Cross 1 : FOREST HILLS RD

Location: THIS PROPERTY IS WEST OF ELM CT AND EAST OF BEVINS LN -- LOCATE THE
ROAD FRONTAGE INCLUDING BOTH SIDES OF THE ROAD

:

Boundary: n 37.645999 s 37.642706 w -82.271818 e -82.267903

Work type : INSTALLING WATER AND SEWER

Done for : MOUNTAIN WATER

Start date: 01/31/2019 Time: 08:15 Hours notice: 48/48 Priority: NORM

Ug/Oh/Both: U Blasting: NO

Emergency: N

Duration : N/A

Depth: 1 FOOT

Company : MOUNTAIN WATER DISTRICT Type: CONT

Co addr : PO BOX 3157

City : PIKEVILLE State: KY Zip: 41502

Caller : MELISSA WATSON Phone: (606)631-9162

Contact : DOUG SCAFF -CELL Phone:

Mobile : (606)625-5814

Fax : (606)631-3087

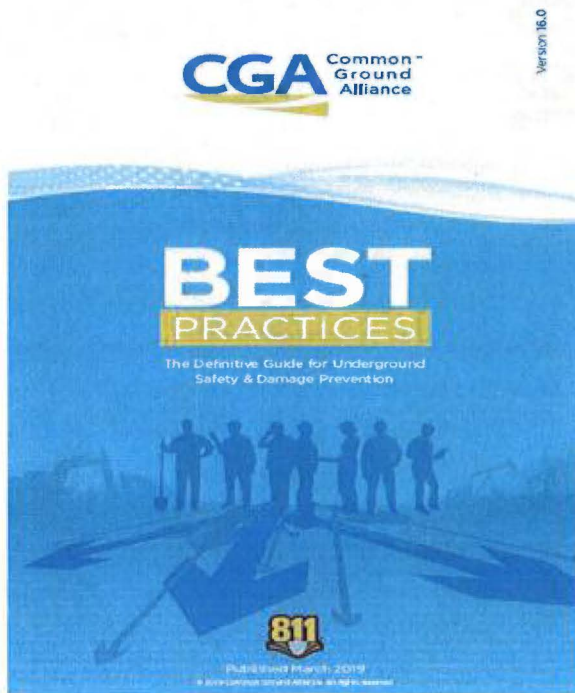
Email : KLOWE@MTWATER.ORG

Submitted date: 01/29/2019 Time: 08:07

Members: 0139 0367 0374 0470 0691

Common Ground Alliance (CGA)

Best Practices Manual for Underground Safety and Damage Prevention



4.22 Marking Newly Installed Facilities

■ Facility Owner ● Excavator ● Locator

Practice Statement:¹²

Facility operators ensure that new facilities in areas with continuing excavation activity are marked upon installation to indicate their presence.

Practice Description:

In areas of continuing excavation, newly installed facilities can be damaged and safety can be compromised if the facilities are not marked. Marking facilities upon installation gives notice to other excavators of the newly installed facilities that may not otherwise be marked in response to a notice of intent to excavate.

References:

- CenterPoint Energy/Minnesota, Michels Construction, WE Energies/Wisconsin

PSC EXHIBIT 2
NOT ADMITTED



Parties List Report

08Nov2019

**Damage Prevention Act - Kentucky
Frontier Gas LLC (Kentucky
Frontier)**

Witness:

Full Name: Charles Michael Harris

Full Name: Doug Scalf

Full Name: John Gowins

Full Name: John Lyons

Full Name: Nicholas Burchett

Full Name: Steve Shute

CT Corporation System Register Agent
306 W Main Street, Suite 512
Frankfort, KENTUCKY 40601

*Honorable John N Hughes
Attorney at Law
124 West Todd Street
Frankfort, KENTUCKY 40601

*Kentucky Frontier Gas, LLC
4891 Independence Street, Suite 200
Wheat Ridge, CO 80033

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