

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CHAD PEERCY

ALLEGED VIOLATION OF UNDERGROUND
FACILITY DAMAGE PREVENTION ACT

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CASE NO. 2019-00339

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 22, 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 22, 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 22, 2019.

A copy of this Notice, the certification of the digital video record, hearing log, and exhibits have been served upon all persons listed at the end of this Notice. Parties desiring to view the digital video recording of the hearing may do so at <https://youtu.be/O2l04PKsRik>.

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 10th day of January 2020.

A handwritten signature in black ink that reads "Gwen R. Pinson". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Gwen R. Pinson
Executive Director
Public Service Commission of Kentucky

Chad Percy
2341 Lancaster Rd.
Richmond, KENTUCKY 40475

Chad Percy
5106 Walnut Meadow Road
Paint Lick, KENTUCKY 40461

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CHAD PEERCY)	CASE NO.
ALLEGED VIOLATION OF UNDERGROUND)	2019-00339
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 22, 2019. The Formal Hearing Log is included with the recording on November 22, 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 22, 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 22, 2019, and the time at which each occurred.

Signed this 9th day of January, 2020.



Candace H. Sacre
Administrative Specialist III

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

Date:	Type:	Location:	Department:
11/22/2019	Show Cause Hearing	Hearing Room 1	Hearing Room 1 (HR 1)

Judge: Michael Schmitt
Clerk: Candace Sacre

Event Time	Log Event	
9:02:08 AM	Session Started	
9:02:11 AM	Session Paused	
9:02:18 AM	Session Resumed	
9:02:19 AM	Chairman Schmitt Note: Sacre, Candace	We're now on the record. This is the Kentucky Public Service Commission. My name is Michael Schmitt. I am Chairman of the Commission. Members also include Vice Chairman Robert Cicero, who is not here this morning, and Commissioner Talina Matthews. Dr. Mathews has recused herself from all cases involving the Underground Facilities Damage Prevention Act.
9:02:47 AM	Chairman Schmitt Note: Sacre, Candace	We're here this morning for the purpose of hearing evidence in cases where the investigative division of the Public Service Commission has issued a civil penalty assessment against individuals and business entities, alleging violations of the Kentucky Underground Facility Damage Prevention Act.
9:03:05 AM	Chairman Schmitt Note: Sacre, Candace	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.
9:03:31 AM	Chairman Schmitt Note: Sacre, Candace	At this time, I think there are scheduled five cases to be heard this morning. I will call those cases now to see who is here and who isn't. For those who respond as being present, we'll then go off the record and come back on for each individual case, taking up the individuals or companies who are present here first, and, if others are not present, we will basically dispose of those cases afterward.
9:04:10 AM	Chairman Schmitt Note: Sacre, Candace	The first case is 2019-00283, Robert Wells d/b/a Well's Plumbing. Is Mr. Wells here or Well's Plumbing? No.
9:04:24 AM	Chairman Schmitt Note: Sacre, Candace	The second case is 2019-00303, Kentucky Tree, LLC. Is Kentucky Tree? Okay, would you identify yourself for the record, please?
9:04:38 AM	Ms. Jones Kentucky Tree Note: Sacre, Candace	Renee Jones, Kentucky Tree, LLC, owner.
9:04:42 AM	Chairman Schmitt Note: Sacre, Candace	And who is with you?
9:04:43 AM	Ms. Jones Kentucky Tree Note: Sacre, Candace	My employee that was at the job site when the incident took place.
9:04:47 AM	Chairman Schmitt Note: Sacre, Candace	Okay, and what is his name?
9:04:49 AM	Ms. Jones Kentucky Tree Note: Sacre, Candace	Tobin Walling.

9:04:52 AM	Chairman Schmitt Note: Sacre, Candace	All right. 2019-00333, Chris Sageser. Is Mr. Sageser here?
9:05:05 AM	Chairman Schmitt Note: Sacre, Candace	The next case, 2019-00339, Chad Peercy d/b/a Peercy Lawn Care, and no one here.
9:05:18 AM	Chairman Schmitt Note: Sacre, Candace	The last, 2019-00340, Sapp's Plumbing, Inc.
9:05:23 AM	Mr. Sapp Sapp's Plumbing Note: Sacre, Candace	Here.
9:05:24 AM	Chairman Schmitt Note: Sacre, Candace	Mr. Sapp? You're Mr. Sapp?
9:05:25 AM	Mr. Sapp Sapp's Plumbing Note: Sacre, Candace	Yes.
9:05:26 AM	Chairman Schmitt Note: Sacre, Candace	Okay. Thank you. All right. We will now go off the record and then come back on and discuss with Kentucky Tree how to move forward with this case.
9:05:51 AM	Chairman Schmitt Note: Sacre, Candace	So, at this time, this matter will be in recess to be reconvened in less than five minutes.
9:06:03 AM	Session Paused	
9:07:24 AM	Session Ended	

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

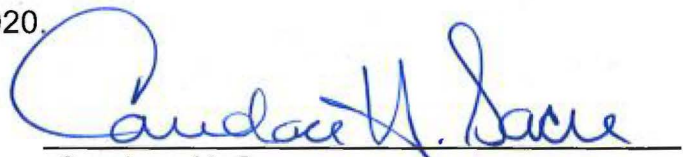
CHAD PEERCY)	CASE NO.
ALLEGED VIOLATION OF UNDERGROUND)	2019-00339
FACILITY DAMAGE PREVENTION ACT)	

CERTIFICATION

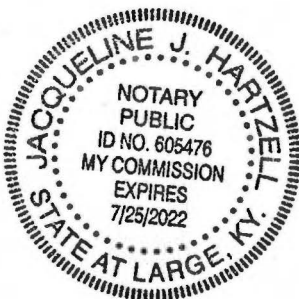
I, Candace H. Sacre, hereby certify that:

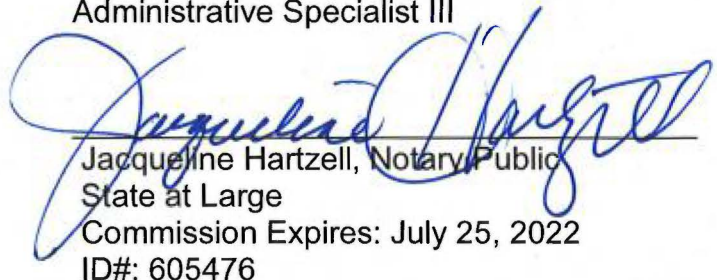
1. The attached DVD contains a digital recording of the Formal Hearing conducted in the above-styled proceeding on November 22, 2019. The Formal Hearing Log, Exhibit List, Exhibits, and Witness List are included with the recording on November 22, 2019;
2. I am responsible for the preparation of the digital recording;
3. The digital recording accurately and correctly depicts the Formal Hearing of November 22, 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 22, 2019, and the time at which each occurred.

Signed this 9th day of January, 2020.



Candace H. Sacre
Administrative Specialist III




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



Session Report - Detail

2019-00339 22Nov2019

**Chad Peercy d/b/a Peercy Lawn
Care (Chad Peercy)**

Date:	Type:	Location:	Department:
11/22/2019	Show Cause Hearing	Hearing Room 1	Hearing Room 1 (HR 1)

Witness: John Gowins
Judge: Michael Schmitt
Clerk: Candace Sacre

Event Time	Log Event	
10:17:18 AM	Session Started	
10:17:23 AM	Chairman Schmitt Note: Sacre, Candace	The last case to be heard this morning is Case No. 2019-00339, the alleged violation of the Underground Facility Damage Prevention Act by Mr. Chad Peercy.
10:17:41 AM	Chairman Schmitt Note: Sacre, Candace	It is alleged that Mr. Peercy violated KRS 367.4911(10) in that he was required, when excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand dig or use nonintrusive means to avoid damage to the underground facility, and it is alleged that damage was incurred by the underground facility while Mr. Peercy was using mechanized equipment.
10:18:25 AM	Chairman Schmitt Note: Sacre, Candace	The case was called earlier today, and Mr. Peercy did not acknowledge his presence in the hearing room, and no one indicated that he or she was here on behalf of Mr. Peercy.
10:18:39 AM	Chairman Schmitt Note: Sacre, Candace	At this time, I would ask if Mr. Chad Peercy is present in the hearing room or if anyone is present at this time on behalf of Mr. Peercy?
10:18:50 AM	Chairman Schmitt Note: Sacre, Candace	No one appearing to respond, either Mr. Peercy or someone on his behalf, it appears he has chosen not to appear and contest this proceeding.
10:19:03 AM	Chairman Schmitt Note: Sacre, Candace	Ms. Frederick, would you please identify yourself, your co-counsel, and your witness for the record?
10:19:11 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Staff Attorneys Tina Frederick and John Park for the Division of Inspections, and we would like to call witness John Gowins.
10:19:29 AM	Chairman Schmitt Note: Sacre, Candace	Witness is sworn.
10:19:36 AM	Chairman Schmitt Note: Sacre, Candace	Ms. Frederick, you may ask.
10:19:39 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins Mr. Gowins, please state your name and your current employment for the record.
10:19:52 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins And, as a part of your duties and responsibilities to the Commission, are you familiar with an incident of damage to an underground natural gas facility that took place on January 16, 2019, at 113 Mountain View Drive in Berea, Kentucky?

10:20:11 AM	Staff Atty Frederick PSC - witness	Gowins
	Note: Sacre, Candace	Did you investigate this incident?
10:20:14 AM	Staff Atty Frederick PSC - witness	Gowins
	Note: Sacre, Candace	Did you prepare an investigation report?
10:20:18 AM	Staff Atty Frederick PSC	
	Note: Sacre, Candace	May I approach, Your Honor?
10:20:19 AM	Chairman Schmitt	
	Note: Sacre, Candace	Yes, you may.
10:20:38 AM	Staff Atty Frederick PSC	
	Note: Sacre, Candace	Your Honor, this has previously been filed. It is now marked as PSC Exhibit 1, and I would move that it be admitted.
10:20:46 AM	Chairman Schmitt	
	Note: Sacre, Candace	Sustained.
10:20:48 AM	PSC EXHIBIT 1	
	Note: Sacre, Candace	INCIDENT 31302 PIPELINE DAMAGE INVESTIGATION REPORT.
	Note: Sacre, Candace	STAFF ATTY FREDERICK PSC - WITNESS GOWINS.
10:20:49 AM	Staff Atty Frederick PSC - witness	Gowins
	Note: Sacre, Candace	Mr. Gowins, is this a true and accurate copy of the investigation report that you prepared for this incident?
10:20:57 AM	Staff Atty Frederick PSC - witness	Gowins
	Note: Sacre, Candace	Who was the owner of the natural gas facility in question here?
10:21:05 AM	Staff Atty Frederick PSC - witness	Gowins
	Note: Sacre, Candace	Can you please describe your investigation and your findings as set forth in this report?
10:22:38 AM	Staff Atty Frederick PSC - witness	Gowins
	Note: Sacre, Candace	And was a demand letter, indeed, sent?
10:22:41 AM	Staff Atty Frederick PSC - witness	Gowins
	Note: Sacre, Candace	And to what address was it sent?
10:22:51 AM	Staff Atty Frederick PSC - witness	Gowins
	Note: Sacre, Candace	Was the demand letter returned undeliverable?
10:22:55 AM	Staff Atty Frederick PSC - witness	Gowins
	Note: Sacre, Candace	Was there a subsequent demand letter that went to a different address?
10:23:00 AM	Staff Atty Frederick PSC - witness	Gowins
	Note: Sacre, Candace	To what address was that demand letter sent?
10:23:09 AM	Staff Atty Frederick PSC - witness	Gowins
	Note: Sacre, Candace	And was that returned as undeliverable?
10:23:14 AM	Staff Atty Frederick PSC	
	Note: Sacre, Candace	Your Honor, I would just note for the record that there was a Notice of Filing done on October 2nd where Mr. Chad Peercy signed for a certified letter that was delivered at 5106 Walnut Meadow Road.
10:23:27 AM	Chairman Schmitt	
	Note: Sacre, Candace	So noted.
10:23:29 AM	Staff Atty Frederick PSC - witness	Gowins
	Note: Sacre, Candace	As a part of your investigation of this incident, did you ever contact Delta Natural Gas and ask additional questions about this incident?
10:23:42 AM	Staff Atty Frederick PSC - witness	Gowins
	Note: Sacre, Candace	When you received the operator report, did you receive any additional information from the operator?
10:23:58 AM	Staff Atty Frederick PSC	
	Note: Sacre, Candace	May I approach, Your Honor?
10:23:59 AM	Chairman Schmitt	
	Note: Sacre, Candace	Yes, you may.

10:24:16 AM	Staff Atty Frederick PSC Note: Sacre, Candace	This has previously been filed into the record, and it is marked as PSC Exhibit 2. I would move that it be admitted.
10:24:24 AM	Chairman Schmitt Note: Sacre, Candace	Sustained.
10:24:26 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins Mr. Gowins, can you describe these pictures for us and tell me what they tell us about this incident of damage?
10:25:06 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins The damage was within the tolerant zone. Is there anything either within the operator report that you received from Delta or these pictures that would indicate that Mr. Peercy was, indeed, using mechanized equipment in the tolerant zone?
10:25:32 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins Thank you. Your Honor, I have no further questions for this witness.
10:25:36 AM	Chairman Schmitt - witness Note: Sacre, Candace	Gowins Examination. Mr. Gowins, is it your understanding that this line contained natural gas at the time it was severed?
10:25:42 AM	Chairman Schmitt Note: Sacre, Candace	No further questions.
10:25:43 AM	Chairman Schmitt Note: Sacre, Candace	May this witness be excused?
10:25:45 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Yes, Your Honor.
10:25:46 AM	Chairman Schmitt Note: Sacre, Candace	You may step down and be excused.
10:25:48 AM	Chairman Schmitt Note: Sacre, Candace	Ms. Frederick, do you have any other witness?
10:25:51 AM	Staff Atty Frederick PSC Note: Sacre, Candace	No, Your Honor.
10:25:53 AM	Chairman Schmitt Note: Sacre, Candace	Or any other matter to bring before the Commission at this time?
10:25:58 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Nothing futher.
10:25:59 AM	Chairman Schmitt Note: Sacre, Candace	At this time, this hearing is hereby adjourned, and this brings to a conclusion all hearings scheduled for today.
10:26:35 AM	Session Ended	



Exhibit List Report

2019-00339 22Nov2019

**Chad Peercy d/b/a Peercy Lawn
Care (Chad Peercy)**

Name:	Description:
PSC EXHIBIT 1	INCIDENT 31302 PIPELINE DAMAGE INVESTIGATION REPORT
PSC EXHIBIT 2	DELTA NATURAL GAS COMPANY PHOTOGRAPHS

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 31302
Incident Date 1/16/2019 4:30:00 PM	Report Submitted 1/25/2019 1:10:29 PM

OPERATOR INFORMATION

Operator Delta Natural Gas Company, Inc. Phone 859-744-6171 ext. 1160 Incident Location 113 Mountain View Drive 113 Mountain View Dr. Berea, KY 40403 Madison	Reported By Mary Virginia Rupard Email mvrupard@deltagas.com Locate Ticket Number 1901081786
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EXCAVATOR INFORMATION

Name of Excavator Peercy, Chad Phone 859-358-1934 Excavator Address Peercy Lawn Care 2341 Lancaster Rd Richmond, KY 40475	Organization ID Email chad.peercy@gmail.com Locate Ticket Number
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INCIDENT

The operator reports that Chad Peercy called 811 to request a line location prior to excavating. The line was located and marked correctly by a Delta employee. Mr. Peercy exposed the service line prior to excavating. The service line broke when he used the backhoe to remove some tree roots.

INVESTIGATION

Peercy Lawn Care is not registered with the Secretary of State's office.

This is the first violation.

Peercy Lawn Care and Property Maintenance Facebook page lists the above phone number.

July 18, 2019 called the above number, it was the voicemail for Chad Peercy, however; the mailbox was full and could not take any messages.

July 19, 2019 called again, same issue, full mailbox. Sent Mr. Peercy a message over messenger.

July 23, 2019 called again, this time was able to leave a voicemail for Mr. Peercy.

July 29, 2019 called again, left a message that a demand letter was coming.

2019-00339

PSC EXHIBIT 1 page 1

VIOLATION

KRS 367.4911 (10) When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

19-339

PSC EXHIBIT 7 page 2





PSC EXHIBIT 2 page 2

*Chad Percy
2341 Lancaster Rd.
Richmond, KENTUCKY 40475

*Chad Percy
5106 Walnut Meadow Road
Paint Lick, KENTUCKY 40461