

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SAPP'S PLUMBING, INC)
_____)

ALLEGED VIOLATION OF UNDERGROUND)
FACILITY DAMAGE PREVENTION ACT)

CASE NO. 2019-00340

NOTICE OF FILING

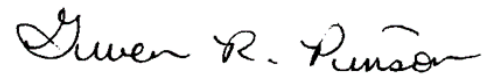
Notice is given to all parties that the following materials have been filed into the record of this proceeding:

- 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.



Gwen R. Pinson
Executive Director
Public Service Commission of Kentucky

Greg Sapp
Sapp's Plumbing, Inc.
100 McLean Rd.
Campbellsville, KENTUCKY 42718

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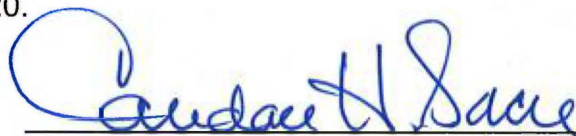
SAPP'S PLUMBING, INC.)	CASE NO.
ALLEGED VIOLATION OF UNDERGROUND)	2019-00340
FACILITY DAMAGE PREVENTION ACT)	

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	

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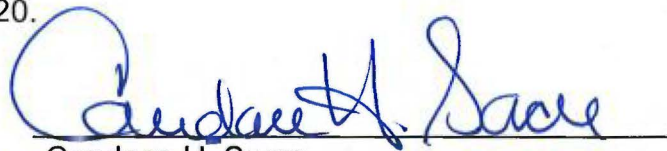
CERTIFICATION

I, Candace H. Sacre, hereby certify that:

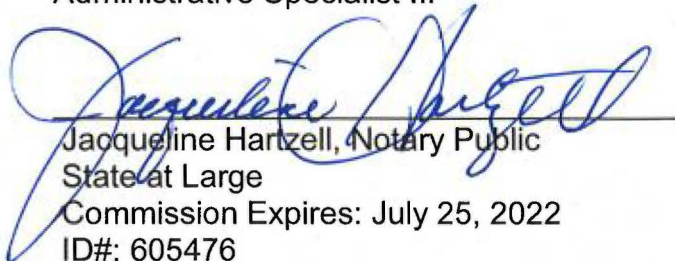
1. The attached DVD contains a digital recording of the Formal Hearing conducted in the above-styled proceeding on November 22, 2019. The Formal Hearing Log, Exhibit List, Exhibits, and Witness List are included with the recording on November 22, 2019;
2. I am responsible for the preparation of the digital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

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

Witness: John Gowins; Greg Sapp
 Judge: Michael Schmitt
 Clerk: Candace Sacre

Event Time	Log Event	
9:37:05 AM	Session Started	
9:37:06 AM	Chairman Schmitt Note: Sacre, Candace	We're now back on the record, and the Commission will call the case of Sapp's Plumbing, Inc., alleged violation of the Underground Facility Damage Prevention Act, Case No. 2019-00340.
9:37:25 AM	Chairman Schmitt Note: Sacre, Candace	Would the individual sitting in the place where Sapp's should be please identify himself?
9:37:38 AM	Chairman Schmitt Note: Sacre, Candace	Mr. Sapp, you were here during the hearing that immediately preceded this one involving Kentucky Tree, LLC, is that correct?
9:37:48 AM	Chairman Schmitt Note: Sacre, Candace	Before we get into the merits of any of this, you understand, I guess, if you didn't before, now, since your company is incorporated – and I assume that it is still incorporated, is that true?
9:38:04 AM	Chairman Schmitt Note: Sacre, Candace	And you operate not as Mr. Sapp, individually, but as Sapp's Plumbing, right, correct?
9:38:12 AM	Chairman Schmitt Note: Sacre, Candace	So that you, as an individual, are not entitled, even though you may own all of the company, you can't represent the company in a case.
9:38:21 AM	Chairman Schmitt Note: Sacre, Candace	Okay, you understand?
9:38:23 AM	Chairman Schmitt Note: Sacre, Candace	Now, as I told Ms. Jones and Kentucky Tree, if you'd like to obtain an attorney before going forward with this hearing, we'll continue this hearing, reschedule it in January, and give you the opportunity to have legal counsel.
9:38:40 AM	Chairman Schmitt Note: Sacre, Candace	But you understand that you'll have an opportunity to tell your version of facts, but you won't be able to cross examine the investigator or anything like that. Do you understand?
9:38:56 AM	Chairman Schmitt Note: Sacre, Candace	At this time then, Ms. Frederick, would you please identify yourself, your co-counsel, and who your witness?
9:39:05 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Yes, Your Honor. Staff Attorneys Tina Frederick and John Park for the Division of Inspections. The witness for this case will be Mr. John Gowins.

9:39:15 AM	Chairman Schmitt Note: Sacre, Candace	The burden of proving this, Mr. Sapp, falls upon the Division of Inspections, so they get to call the witness first. Then, after their witness speaks, I may or may not ask some questions. You can't ask questions because it'd be the unauthorized practice of law.
9:39:34 AM	Chairman Schmitt Note: Sacre, Candace	But then you'll get an opportunity to tell your story, all right?
9:39:37 AM	Chairman Schmitt Note: Sacre, Candace	Ms. Frederick, would you please call your first witness?
9:39:40 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Division of Inspections calls John Gowins.
9:39:51 AM	Chairman Schmitt Note: Sacre, Candace	Witness is sworn.
9:39:59 AM	Chairman Schmitt Note: Sacre, Candace	Ms. Frederick?
9:40:00 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Thank you.
9:40:01 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins Direct Examination. Could you state your name and your current employment for the record, please?
9:40:13 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins And, as part of your duties and responsibilities, are you familiar with an incident of damage to an underground natural gas facility that took place on November 5, 2018, at 527 Willow Way in Campbellsville?
9:40:32 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins Did you investigate this incident?
9:40:36 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins Did you prepare an investigation report?
9:40:40 AM	Staff Atty Frederick PSC Note: Sacre, Candace	May I approach, Your Honor?
9:40:41 AM	Chairman Schmitt Note: Sacre, Candace	Yes, you may.
9:41:11 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins Mr. Gowins, does this appear to be a true and accurate copy of your report of this incident?
9:41:18 AM	PSC EXHIBIT 1. Note: Sacre, Candace Note: Sacre, Candace	INCIDENT 21118 PIPELINE DAMAGE INVESTIGATION REPORT. STAFF ATTY FREDERICK PSC - WITNESS GOWINS.
9:41:20 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins Can you describe your investigation and its findings as laid out in this report?
9:42:13 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins And the phone number that you called for Mr. Sapp, is that the phone number listed under Excavator Information on this report?
9:42:23 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins And you said a demand letter was sent?
9:42:28 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins Do you know to what address that was sent?
9:42:34 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins And do you know if that demand letter was ever returned by the post office as undeliverable?
9:42:41 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins And what provision of the statute did you site Mr. Sapp as violating?

9:42:58 AM	Staff Atty Frederick PSC - witness Gowins Note: Sacre, Candace	And that's the dig ticket that Atmos said they did not have?
9:43:04 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Thank you, Your Honor. I have no further questions for Mr. Gowins.
9:43:07 AM	Chairman Schmitt Note: Sacre, Candace	I may have a couple.
9:43:12 AM	Chairman Schmitt - witness Gowins Note: Sacre, Candace	Examination. To your knowledge, Mr. Gowins, was there natural gas in the line at the time it was struck? Do you know if it was an active natural gas line?
9:43:42 AM	Chairman Schmitt - witness Gowins Note: Sacre, Candace	But you were never able to make contact with Mr. Sapp or Sapp's Plumbing, Inc., is that correct?
9:44:24 AM	Chairman Schmitt Note: Sacre, Candace	No further questions. May this witness step down and be excused?
9:44:27 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Yes, Your Honor. Thank you.
9:44:30 AM	Chairman Schmitt Note: Sacre, Candace	Mr. Sapp, if you'd like to take the stand, I will let you do that.
9:44:42 AM	Chairman Schmitt Note: Sacre, Candace	Witness is sworn.
9:44:52 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	Examination. State your full name and address for the record, Mr. Sapp.
9:45:00 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	Now, were you – let me look at the record here a second. Were you working on or about 527 Willow Way, Campbellsville, Kentucky, on or about November 5, 2018, at about 9:53 a.m.?
9:45:26 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	What were you doing there?
9:45:29 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	For who?
9:45:32 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	To his home or something?
9:45:51 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	Did you strike a water line in the process of doing that?
9:45:54 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	A gas line, I'm sorry. You were digging for a water line?
9:45:57 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	Did you strike a gas line?
9:45:59 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	With what? A backhoe?
9:46:01 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	A trackhoe. Was there gas in the line at the time you struck it?
9:46:06 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	Did you report it, or did somebody report it?
9:46:21 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	Let me ask you this. I guess you got a letter or something?
9:46:36 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	The reason, I know sometimes, when a person isn't familiar with all these processes, you think, "Well, I'll just come in and not contact you." But the Division of Inspections has a program that allows a first-time – somebody who breaks into or strikes a natural gas line one time to pay just a \$250 fine if you come in here for a two-hour training program.

9:47:13 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	Were you aware of that at the time?
9:47:18 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	What I'm saying is, if you'd called, they would probably have told you, "Hey, you know what? We'll take care of this if. . ." If given the opportunity right now to hold a decision in abeyance until the next training program, would you agree to pay a \$250 fine as opposed to a \$1250 fine?
9:47:41 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	But you'd have to go to training, and you have to show up whenever they –
9:47:48 AM	Chairman Schmitt Note: Sacre, Candace	I'm sorry I jumped the gun, Ms. Frederick. Do you want to examine the witness?
9:47:52 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Yes, Your Honor, yes, I do. I have a couple of questions.
9:47:54 AM	Staff Atty Frederick PSC - witness Sapp Note: Sacre, Candace	Cross Examination. Has Atmos assessed you any repair costs in conjunction with this?
9:48:01 AM	Staff Atty Frederick PSC - witness Sapp Note: Sacre, Candace	And how much were the repair costs?
9:48:05 AM	Staff Atty Frederick PSC - witness Sapp Note: Sacre, Candace	And have you paid that invoice?
9:48:09 AM	Staff Atty Frederick PSC - witness Sapp Note: Sacre, Candace	Have they given you a deadline to pay that invoice?
9:48:22 AM	Staff Atty Frederick PSC Note: Sacre, Candace	I have no further questions, Your Honor.
9:48:26 AM	Chairman Schmitt Note: Sacre, Candace	Ms. Frederick, do you know when the next training session is?
9:48:30 AM	Staff Atty Frederick PSC Note: Sacre, Candace	December 2nd, at one o'clock in the afternoon.
9:48:36 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	Examination. Now, can you be here December 2nd at one o'clock?
9:48:43 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	An order will be entered that basically assesses a penalty against your company, Mr. Sapp, in the amount of \$1,250, but it will say, if you are here on December 2nd at one p.m. and you stay for the two hours, the thousand dollars will be wiped away or extinguished from the civil penalty.
9:49:06 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	You understand that?
9:49:08 AM	Chairman Schmitt - witness Sapp Note: Sacre, Candace	You agree to that, correct?
9:49:11 AM	Chairman Schmitt Note: Sacre, Candace	May this witness step down or be excused?
9:49:14 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Yes, Your Honor. Thank you.
9:49:15 AM	Chairman Schmitt Note: Sacre, Candace	I would suggest, if this happens, you know, striking a line again, the best thing to do is to call because you may be doing yourself a disservice if you don't.
9:49:55 AM	Chairman Schmitt Note: Sacre, Candace	that ou for yor ca d ou maye be ex at jis time thiso
9:49:57 AM	Chairman Schmitt Note: Sacre, Candace	At this time, this case is hereby -

9:50:04 AM	Chairman Schmitt Note: Sacre, Candace	If you'll speak to Mr. Lyons or Mr. Gowins or somebody there, they can give you the information.
9:50:12 AM	Chairman Schmitt Note: Sacre, Candace	At this time, this case is hereby adjourned.
9:50:20 AM	Session Ended	



Exhibit List Report

2019-00340 22Nov2019

Sapp's Plumbing, Inc. (Sapp's
Plumbing)

Name:	Description:
PSC EXHIBIT 1	INCIDENT 21118 PIPELINE DAMAGE INVESTIGATION REPORT

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

KY PSC Investigator(s) John E. Gowins	Incident ID 21118
Incident Date 11/5/2018 9:53:00 AM	Report Submitted 11/5/2018 11:23:27 AM

OPERATOR INFORMATION

Operator Atmos Energy Corporation	Reported By Lisa Whitney
Phone (270) 901-1711	Email lisa.whitney@atmosenergy.com
Incident Location 527 Willow Way, Campbellsville, KY 527 Willow Way Campbellsville, KY 42718	Locate Ticket Number N/A
Taylor	

EXCAVATOR INFORMATION

Name of Excavator Sapp, Greg	Organization ID N/A
Phone 270-469-0984	Email N/A
Excavator Address Sapp's Plumbing 100 McLean Rd Campbellsville, KY 42718	Locate Ticket Number

INCIDENT

Sapp's Plumbing, cut 3/4" PE service, while installing a water line at 527 Willow Way. They did not have a locate ticket for this damage according to Atmos employees.

INVESTIGATION

Sapp's Plumbing, Inc. is a Kentucky corporation that is inactive and in bad standing with the Secretary of State's office.

June 12, 2019 called Sapp's Plumbing, the mailbox was full and wasn't accepting any new messages at this time.

June 13, 2019 called and was able to leave a voicemail for Mr. Sapp.

June 18, 2019 called and again left a voicemail.

June 24, 2019 called again, left a voicemail message that a demand letter with a \$1250 civil penalty was coming.

VIOLATION

367.4911 (1) (a) Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full working days nor more than ten (10) full working days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.

2019 - 00340

PSC EXHIBIT 1

Greg Sapp
Sapp's Plumbing, Inc.
100 McLean Rd.
Campbellsville, KENTUCKY 42718