

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

UNDERGROUND AMERICA INC.	)	
	)	
_____	)	CASE NO.
	)	2019-00338
ALLEGED VIOLATION OF UNDERGROUND	)	
FACILITY DAMAGE PREVENTION ACT	)	

OPENING ORDER

Underground America Inc. (Underground America) has been named as a party to an investigation before the Kentucky Public Service Commission (Commission) for allegedly violating the Kentucky Underground Facility Damage Prevention Act (Act).<sup>1</sup>

Pursuant to KRS 278.495(2), the Commission has jurisdiction to regulate the safety of natural gas facilities in Kentucky and to enforce minimum federal pipeline safety standards. Under the Act, the Commission has authority to investigate and assess civil penalties for any violation of the Act that results in excavation damage to an underground facility used to transport natural gas or hazardous liquid subject to federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.* Any person who violates any provision of the Act is subject to assessment of a civil penalty in the amount of \$250 for the first offense, no more than \$1,000 for the second offense within one year, and no more than \$3,000 for the third and any subsequent offense. Additionally, any person whose violation of the Act results in damage to an underground facility containing any flammable, toxic, corrosive,

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<sup>1</sup> KRS 367.4901 through KRS 367.4917.

or hazardous material or results in the release of any flammable, toxic, corrosive, or hazardous material is subject to an additional penalty of up to \$1,000.

Following receipt of a report of excavation damage to its underground gas pipeline from an operator, Commission Staff (Staff) conducted an investigation and prepared an Incident Report, a copy of which is attached to this Order as an Appendix. In its Incident Report, Staff cites Underground America for violation of the following provision of the Act:

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.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that Underground America violated the Underground Facility Damage Prevention Act. The Commission further finds that a formal investigation into the excavation damage incident should be conducted.

IT IS THEREFORE ORDERED that:

1. Underground America shall submit to the Commission a written response to the allegations contained in the Staff Incident Report within 20 days of receipt of this Order.
2. Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.
3. The Staff Incident Report 31318 in the Appendix to this Order is made a part of the record in this case.

4. Please note that notice of a hearing to be held in this matter will be mailed to Underground America once proof of service is received by the Commission. Parties who fail to appear after service will be subject to entry of a default judgment against them.

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By the Commission

Commissioner Talina Mathews did not participate in this case.

ENTERED  
NOV 20 2019  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
John L. Pugh  
Executive Director

Case No. 2019-00338

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00338 DATED **NOV 20 2019**

TWO PAGES TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

<b>KY PSC Investigator(s)</b> John E. Gowins	<b>Incident ID</b> 31318
<b>Incident Date</b> 1/10/2019 1:35:00 PM	<b>Report Submitted</b> 2/8/2019 10:03:09 AM

## OPERATOR INFORMATION

<b>Operator</b> Louisville Gas and Electric Company	<b>Reported By</b> Mike Jones
<b>Phone</b> (502) 364-8281	<b>Email</b> Mike.Jones@lge-KU.com
<b>Incident Location</b> 17209 Ash Hill Dr. Louisville, KY 40245	<b>Locate Ticket Number</b> 1812270621
Jefferson	

## EXCAVATOR INFORMATION

<b>Name of Excavator</b> Deleen, Marten	<b>Organization ID</b>
<b>Phone</b> 404-925-4835	<b>Email</b>
<b>Excavator Address</b> Underground America Inc. 3111 Moon Station Rd NW Unit B Kennesaw, GA 30144	<b>Locate Ticket Number</b>

## INCIDENT

The operator reports that the contractor damaged accurately marked 2" plastic gas main when paralleling the gas main with a punch to install telecom fiber. Contractor did not expose all of main where they were excavating nor did they maintain a safe distance from the gas main.

## INVESTIGATION

Underground America Inc. is a Georgia corporation that is active and in compliance with the Georgia Secretary of State's office.

Online information has phone #: 404.831.3036.

July 16, 2019

- Called online number, left voicemail.
- Called number listed in report above, left voicemail.

July 23, 2019

- Called online number, mailbox was full and could not accept messages.
- Called number above, went to voicemail, left a message that I was sending a demand letter to them.
- Online LinkedIn lists Michael Tarabula as President of the corporation.

**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.

Michael Tarabula  
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white, GEORGIA 30184

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