

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PREMIER UNDERGROUND LLC – ALLEGED )  
VIOLATION OF UNDERGROUND FACILITY ) CASE NO. 2019-00162  
DAMAGE PREVENTION ACT )

NOTICE OF FILING

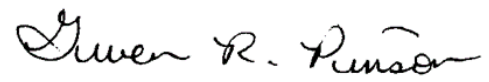
Notice is given to all parties that the following materials have been filed into the record of this proceeding:

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

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

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

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

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

---

Gwen R. Pinson  
Executive Director  
Public Service Commission of Kentucky

Tim Dunn  
Premier Underground LLC  
1395 ST RT 1022W  
Bardwell, KENTUCKY 42023

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:


PREMIER UNDERGROUND LLC – ALLEGED	)	CASE NO.
VIOLATION OF UNDERGROUND FACILITY	)	2019-00162
DAMAGE PREVENTION ACT	)	

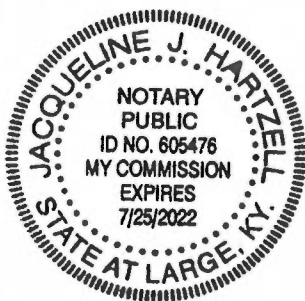
CERTIFICATION

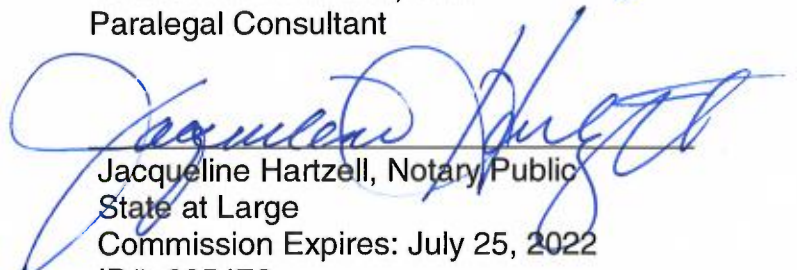
I, KaBrenda L. Warfield, hereby certify that:

1. The attached DVD contains a digital recording of the Formal Hearing conducted in the above-styled proceeding on August 9, 2019. Hearing Log, is included with the recording on August 9, 2019.
2. I am responsible for the preparation of the digital recording;
3. The digital recording accurately and correctly depicts the Formal Hearing of August 9, 2019.
4. The Formal Hearing Log attached to this Certificate accurately and correctly states the events that occurred at the Formal Hearing of August 9, 2019 and the time at which each occurred.

Signed this 19<sup>th</sup> day of August, 2019.

  
KaBrenda L. Warfield, CKP  
Paralegal Consultant



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



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

Judge: Michael Schmitt  
 Clerk: KaBrenda Warfield

Event Time	Log Event	
8:45:00 AM	Session Started	
8:45:01 AM	Session Paused	
9:03:35 AM	Chairman Schmitt Note: Warfield, KaBrenda	Chairman Schmitt stating preliminary remarks and introduction of Vice Chairman Cicero and Commissioner Mathews.
9:03:35 AM	Session Resumed	
9:04:39 AM	Chairman Schmitt Note: Warfield, KaBrenda	This proceeding is being video recorded which will be the official record in the case.
9:05:24 AM	Chairman Schmitt Note: Warfield, KaBrenda	This proceeding is also being broadcast live over the internet this morning. I'm not sure we will continue to do that but we have been broadcasting all hearings and most other things that occur in this room live.
9:05:24 AM	Chairman Schmitt Note: Warfield, KaBrenda	This proceeding is also being
9:05:45 AM	Chairman Schmitt Note: Warfield, KaBrenda	For anyone that may be watching today's hearings involve the hearing of evidence potentially in fourteen cases were the Investigative Division of the Public Service Commission has issued civil penalty assessments against individuals and business entities alleging violations of the Kentucky Underground Facility Damage Prevention Act.
9:06:41 AM	Chairman Schmitt Note: Warfield, KaBrenda	So this morning we have I think potentially fourteen cases on the Docket, but doubt from looking out into the hearing room that there are fourteen people or entities here.
9:07:01 AM	Chairman Schmitt Note: Warfield, KaBrenda	So I will call the Docket and then ask Mr. Park who is representing the Division of Inspections about the status of these cases whether anything has been done with respect to continuing any of the cases and specifically whether service of process has been perfected.
9:07:43 AM	Chairman Schmitt Note: Warfield, KaBrenda	Once we get through that, if we have a formal hearing or anything to be held we can do that and get it out of the way.
9:07:54 AM	2019-00155 - BURL RUSSELL Note: Warfield, KaBrenda	Mr. Park do you know anything about Mr. Russell?
9:08:31 AM	Chairman Schmitt Note: Warfield, KaBrenda	Mr. Russell is not here. We will call his name one more time before we are finished.
9:08:41 AM	2019-00156 - KEITH GUTTERMAN Note: Warfield, KaBrenda	Has Mr. Gutterman been served to your knowledge?
9:09:07 AM	Chairman Schmitt - Staff Atty Park PSC Note: Warfield, KaBrenda	That will be sustained.

9:09:10 AM Chairman Schmitt  
Note: Warfield, KaBrenda For the benefit of anyone here or anyone watching we made a determination that these hearings will be held on the fourth Friday of every month.

9:09:30 AM 2019-00158 - SCOTT EXCAVATING, INC.  
Note: Warfield, KaBrenda Has Scott Excavating, Inc. been served with process?

9:09:52 AM 2019-00159 - BRUCE HUBBARD  
Note: Warfield, KaBrenda Is there proof of service on Mr. Hubbard?

9:10:16 AM Chairman Schmitt - Staff Atty Park PSC  
Note: Warfield, KaBrenda That will be sustained.

9:10:25 AM 2019-00160 - JONATHAN HYLTON  
Note: Warfield, KaBrenda Mr. Park has service been achieved on Mr. Hylton?

9:10:49 AM Chairman Schmitt - Staff Atty Park PSC  
Note: Warfield, KaBrenda That will be sustained.

9:10:51 AM 2019-00161 - LONNIE WILLIAMS AND SON EXCAVATING, LLC  
Note: Warfield, KaBrenda Has service been perfected on Lonnie Williams and Son Excavating, LLC?

9:11:16 AM Chairman Schmitt - Staff Atty Park PSC  
Note: Warfield, KaBrenda Sustained.

9:11:18 AM 2019-00162 - PREMIER UNDERGROUND, LLC  
Note: Warfield, KaBrenda Mr. Park what is the status of service of process for Premier Underground, LLC?

9:12:02 AM Chairman Schmitt - Staff Atty Park PSC  
Note: Warfield, KaBrenda Thank you.

9:12:05 AM 2019-00163 - GEORGE TAPP EXCAVATION  
Note: Warfield, KaBrenda Mr. Park what is the status of Mr. Tapp in terms of service?

9:13:02 AM Chairman Schmitt - Staff Atty Park PSC  
Note: Warfield, KaBrenda Thank you.

9:13:04 AM 2019-00164 - PRECISION FLOORING & CARPENTRY, LLC  
Note: Warfield, KaBrenda Mr. Park what is the status of Percision Flooring & Carpentry, LLC?

9:13:30 AM Chairman Schmitt - Staff Atty Park PSC  
Note: Warfield, KaBrenda Sustained.

9:13:31 AM 2019-00166 - LINEMAN FARMS, LLC  
Note: Warfield, KaBrenda Mr. Park what is the status of Lineman Farms, LLC?

9:14:00 AM Chairman Schmitt - Staff Atty Park PSC  
Note: Warfield, KaBrenda Sustained.

9:14:02 AM 2019-00167 - HAYDEN CONSTRUCTION CO., INC.  
Note: Warfield, KaBrenda Mr. Park?

9:14:18 AM Chairman Schmitt  
Note: Warfield, KaBrenda Okay.

9:14:20 AM 2019-00168 - PRODIGY CONSTRUCTION CORPORATION, INC.  
Note: Warfield, KaBrenda Yes sir, okay.

9:14:40 AM 2019-00235 - DEREK ENGINEERING, INC.  
Note: Warfield, KaBrenda Okay. Thank you.

9:14:54 AM 2019-00236 - MARCUS HENSLEY  
Note: Warfield, KaBrenda You're Mr. Hensley. Thank you.

9:15:04 AM Chairman Schmitt  
Note: Warfield, KaBrenda Alright. I guess Mr. Russell, Scott Excavation, Premier Underground, LLC, Mr. Tapp, and Hayden Construction are all before the Commission, but have not appeared at least today. So what we will do is pass those cases until the end. And if they appear we'll proceed and give them the opportunity to participate.

9:15:44 AM Chairman Schmitt  
Note: Warfield, KaBrenda And if not. Mr. Park I'll ask you to go ahead and put on the evidence on behalf of the investigation division.

9:16:08 AM Chairman Schmitt - witness Hensley  
Note: Warfield, KaBrenda Let me ask first. Mr. Hensley are you here by yourself? And you are not represented by counsel?

9:16:14 AM Chairman Schmitt - witness Hensley  
Note: Warfield, KaBrenda And you don't have any witnesses other than yourself? Correct?

9:16:19 AM Chairman Schmitt - witness Mattingly  
Note: Warfield, KaBrenda And Prodigy Construction will you identify yourself for the record please?

9:16:30 AM Chairman Schmitt - witness Mattingly  
Note: Warfield, KaBrenda Are you here by yourself?

9:16:33 AM Chairman Schmitt - witness Mattingly  
Note: Warfield, KaBrenda Are you an owner of Prodigy?

9:16:37 AM Chairman Schmitt - witness Mattingly  
Note: Warfield, KaBrenda That's another issue. Wheter or not you are required to have a attorney.

9:16:48 AM Chairman Schmitt - Atty Blandford Derek Engineering  
Note: Warfield, KaBrenda But then Derek Engineering, Inc. Mr. Blandford correct?

9:17:00 AM Chairman Schmitt - Atty Blandford Derek Engineering  
Note: Warfield, KaBrenda So you're here and you have a witness? Correct?

9:17:03 AM Chairman Schmitt - Atty Blandford Derek Engineering  
Note: Warfield, KaBrenda Because of that I will probably let you go first. Or let Mr. Park put on his case first and you'll have a chance to cross examine and then put on your witness. Unless there is something else you would like to bring to the attention of the Commission before we start?

9:17:58 AM Chairman Schmitt - Atty Blandford Derek Engineering  
Note: Warfield, KaBrenda Alright that's fine.

9:18:01 AM Chairman Schmitt - Atty Blandford Derek Engineering  
Note: Warfield, KaBrenda We have tried to avoid any communication between inspections and the Commission because of the way that we are divided.

9:18:22 AM Chairman Schmitt - Atty Blandford Derek Engineering  
Note: Warfield, KaBrenda Are you satisfied at this time that you have sufficient information?

9:18:56 AM Chairman Schmitt  
Note: Warfield, KaBrenda Alright. Thank you.

9:18:57 AM Chairman Schmitt  
Note: Warfield, KaBrenda That being the case why don't we take a five minute break and let Mr. Blandford come up front here and get situated with his client. And then we will begin and follow up with Mr. Hensley, and then Prodigy Construction.

9:19:17 AM Chairman Schmitt  
Note: Warfield, KaBrenda So we are going off the record here for five minutes. Until say twenty five minutes after nine am.

9:19:26 AM Session Paused

9:24:05 AM Session Ended

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

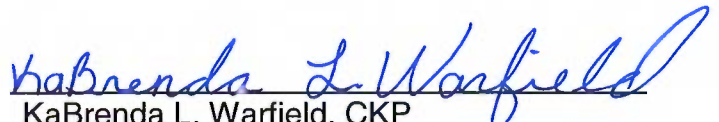
PREMIER UNDERGROUND LLC – ALLEGED	)	CASE NO.
VIOLATION OF UNDERGROUND FACILITY	)	2019-00162
DAMAGE PREVENTION ACT	)	

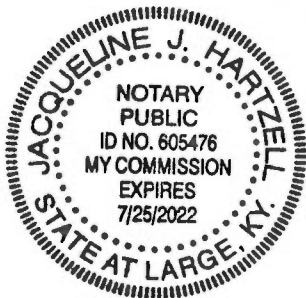
CERTIFICATION

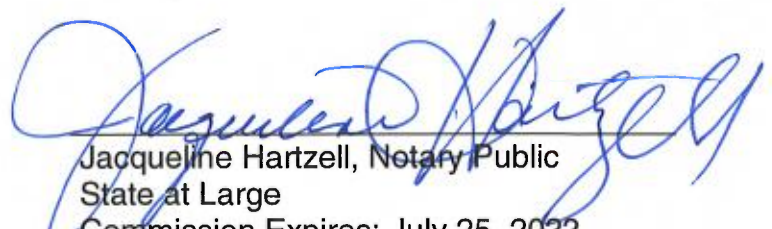
I, KaBrenda L. Warfield, hereby certify that:

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

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

  
KaBrenda L. Warfield, CKP  
Paralegal Consultant



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





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

Judge: Michael Schmitt  
 Clerk: KaBrenda Warfield

Event Time	Log Event
------------	-----------

11:19:38 AM	Session Started	
11:19:39 AM	Chairman Schmitt Note: Warfield, KaBrenda	We are now back on the record for Case No. 2019-00162, Premier Underground, LLC, alleged violation of Undergrand Facility Damage Prevention Act. According to the initiating order, Premier Underground, LLC,violated 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,"
11:20:24 AM	Chairman Schmitt Note: Sacre, Candace	Mr. Park, is that the sole allegation against Premier Underground, LLC?
11:20:32 AM	Staff Atty Park PSC Note: Sacre, Candace	Yes, it is, Mr. Chairman.
11:20:34 AM	Chairman Schmitt Note: Warfield, KaBrenda	Is anyone in the hearing room present on behalf of Premier Underground, LLC?
11:20:44 AM	Chairman Schmitt Note: Sacre, Candace	This is the second time this matter was called. Initially, at 9 a.m. or shortly thereafter, it was asked on the record if anyone from Premier was present, and there was no positive response and no one here, and that appears to be the case this time.
11:21:05 AM	Chairman Schmitt Note: Sacre, Candace	Mr. Park, has Premier Underground, LLC, been served with process?
11:21:10 AM	Staff Atty Park PSC Note: Sacre, Candace	Yes, Mr. Chairman, Premier Underground has been served with process, and proof of service has been filed in the record.
11:21:17 AM	Chairman Schmitt Note: Warfield, KaBrenda	Alright. Do you have a witness to present relative to the allegations against Premier?
11:21:26 AM	Staff Atty Park PSC Note: Sacre, Candace	Mr. Chairman, staff requests that the hearing in this matter be continued to September 27. A demand letter was issued in this case. The proposed penalty of \$250 was paid. There was no representative of Premier Underground at the training seminar. We have gotten a communication from a representative of Premier that a check for the full maximum amount of the first offense is being sent and should be received by the Commission today. If Premier Underground pays the full maximum amount for a first offense, that would relieve it of any obligation to attend the training.

11:22:08 AM	Chairman Schmitt Note: Sacre, Candace	All right. With that understanding, this matter is hereby continued until September 27, 2019, at 9 o'clock a.m., whereupon this hearing will be heard or conducted unless, as per the representation of Premier, the full amount of the penalty is paid prior to that time. Correct?
11:22:40 AM	Staff Atty Park PSC Note: Sacre, Candace	That's correct, Your Honor.
11:22:42 AM	Chairman Schmitt Note: Sacre, Candace	At this time, then this hearing is adjourned.
11:22:47 AM	Session Ended	

\*Tim Dunn  
Premier Underground LLC  
1395 ST RT 1022W  
Bardwell, KENTUCKY 42023