

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GEORGE TAPP – ALLEGED VIOLATION OF )  
UNDERGROUND FACILITY DAMAGE PREVENTION ) CASE NO. 2019-00163  
ACT )

NOTICE OF FILING

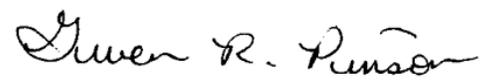
Notice is given to all parties that the following materials have been filed into the record of this proceeding:

- 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 cursive script that reads "Gwen R. Pinson".

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Gwen R. Pinson  
Executive Director  
Public Service Commission of Kentucky

George Tapp  
102 Rolling Ridge Way  
Simpsonville, KENTUCKY 40067

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GEORGE TAPP – ALLEGED VIOLATION OF	)	CASE NO.
UNDERGROUND FACILITY DAMAGE	)	2019-00163
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*  
KaBrenda L. Warfield, CKP  
Paralegal Consultant

*Jacqueline J. Hartzell*  
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 protected 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 Proodigy 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 Note: Warfield, KaBrenda	Derek Engineering But then Derek Engineering, Inc. Mr. Blandford correct?
9:17:00 AM	Chairman Schmitt - Atty Blandford Note: Warfield, KaBrenda	Derek Engineering So you're here and you have a witness? Correct?
9:17:03 AM	Chairman Schmitt - Atty Blandford Note: Warfield, KaBrenda	Derek Engineering 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 Note: Warfield, KaBrenda	Derek Engineering Alright that's fine.
9:18:01 AM	Chairman Schmitt - Atty Blandford Note: Warfield, KaBrenda	Derek Engineering 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 Note: Warfield, KaBrenda	Derek Engineering 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:

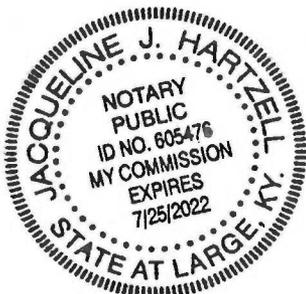
GEORGE TAPP – ALLEGED VIOLATION OF	)	CASE NO.
UNDERGROUND FACILITY DAMAGE	)	2019-00163
PREVENTION ACT	)	

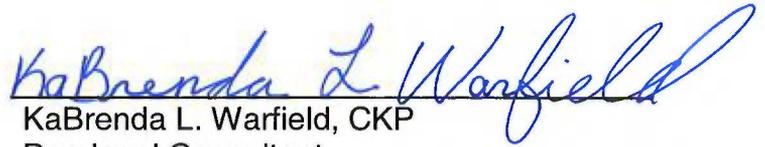
CERTIFICATION

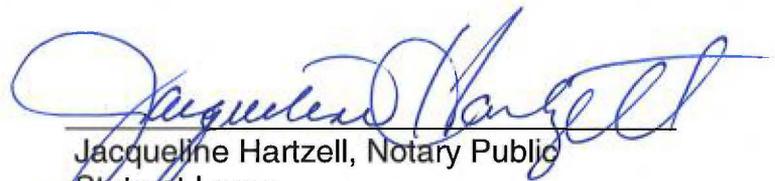
I, KaBrenda L. Warfield, hereby certify that:

1. The attached DVD contains a digital recording of the Formal Hearing conducted in the above-styled proceeding on August 09, 2019. Hearing Log, Exhibit List, Exhibit, and Witness List are 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)

Witness: Eric Tout  
 Judge: Michael Schmitt  
 Clerk: KaBrenda Warfield

Event Time	Log Event	
11:23:38 AM	Session Started	
11:23:39 AM	Chairman Schmitt Note: Warfield, KaBrenda	We are now back on the record to consider Case No. 2019-00163, George Tapp, alleged violation of Undergrand Facility Damage Prevention Act. Mr. Tapp, according to the initiating order, is alleged to have violated KRS 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."
11:24:32 AM	Chairman Schmitt Note: Sacre, Candace	Mr. Park, this is the allegation and the only allegation against George Tapp, is that correct?
11:24:39 AM	Staff Atty Park PSC Note: Sacre, Candace	That is correct.
11:24:41 AM	Chairman Schmitt Note: Warfield, KaBrenda	At this time, I would ask, is Mr. Tapp or any representative of Mr. Tapp present in the hearing room?
11:24:50 AM	Chairman Schmitt Note: Sacre, Candace	There being no positive response to that question, I would note for the record that this is the second time this case has been called, the first being shortly after 9 o'clock a.m., and neither Mr. Tapp nor anyone allegedly representing Mr. Tapp was present in the hearing room.
11:25:11 AM	Chairman Schmitt Note: Warfield, KaBrenda	So, at this time, Mr. Park, are you prepared to present evidence of the case against Mr. Tapp?
11:25:17 AM	Staff Atty Park PSC Note: Sacre, Candace	Yes, Mr. Chairman, staff would like to call Mr. Eric Tout.
11:25:33 AM	Chairman Schmitt Note: Warfield, KaBrenda	Witness is sworn.
11:25:42 AM	Chairman Schmitt Note: Sacre, Candace	Please be seated. Mr. Park, you may ask.
11:25:46 AM	Staff Atty Park PSC - witness Tout Note: Sacre, Candace	Direct Examination. Mr. Tout, what is your position with the Kentucky Public Service Commission?
11:25:55 AM	Staff Atty Park PSC - witness Tout Note: Sacre, Candace	And how long have you been employed at this position?
11:26:03 AM	Staff Atty Park PSC - witness Tout Note: Sacre, Candace	Are you familiar with an incident that occurred on September 7, 2018, at 352 Connor Station Road in Simpsonville, Kentucky?

11:26:15 AM	Staff Atty Park PSC Note: Warfield, KaBrenda	May I approach, Your Honor?
11:26:18 AM	Chairman Schmitt Note: Sacre, Candace	Yes, you may.
11:26:44 AM	Staff Atty Park PSC - witness Tout Note: Warfield, KaBrenda	Could you please describe this document?
11:26:57 AM	Staff Atty Park PSC - witness Tout Note: Warfield, KaBrenda	And is this a true and accurate copy of your Pipeline Damage Investigation Report?
11:27:03 AM	Staff Atty Park PSC Note: Warfield, KaBrenda	Staff moves for this document to be admitted as PSC Exhibit 01.
11:27:07 AM	Chairman Schmitt Note: Sacre, Candace	That's sustained. Let it be filed.
11:27:08 AM	PSC EXHIBIT 01 Note: Sacre, Candace Note: Sacre, Candace	STAFF ATTY PARK PSC - WITNESS TOUT. GEORGE TAPP PIPELINE DAMAGE INVESTIGATION REPORT.
11:27:20 AM	Staff Atty Park PSC - witness Tout Note: Warfield, KaBrenda	Would you please describe your investigation of this particular incident?
11:28:39 AM	Staff Atty Park PSC - witness Tout Note: Warfield, KaBrenda	To your knowledge, has Mr. Tapp paid any fine?
11:28:44 AM	Staff Atty Park PSC - witness Tout Note: Sacre, Candace	Has he attended any training session?
11:28:54 AM	Staff Atty Park PSC - witness Tout Note: Sacre, Candace	And what were your findings based upon your investigation in terms of whether there was a violation of the Act that occurred?
11:29:15 AM	Staff Atty Park PSC Note: Warfield, KaBrenda	I have no further questions.
11:29:19 AM	Chairman Schmitt - witness Tout Note: Warfield, KaBrenda	Examination. Mr. Tout, did Mr. Tapp indicate or state that he had paid the damages to the line to Louisville Gas and Electric Company, and do we know whether or not he in fact did that?
11:29:56 AM	Staff Atty Park PSC - witness Tout Note: Warfield, KaBrenda	Mr. Tapp filed a document in response to the initiating Order in this case in which he claimed he paid the penalty, and with that response, he attached a copy of a sheet of processed checks which indicated he had circled one check payable to Louisville Gas & Electric, not to the Commission.
11:30:27 AM	Chairman Schmitt Note: Sacre, Candace	Now, Mr. Tapp is before the Commission because he entered an appearance, is that correct?
11:30:40 AM	Staff Atty Park PSC Note: Sacre, Candace	He did file a Response to the Order signed by Gary Tapp, and he has been properly served. He's obviously not here at this hearing. He did submit with his handwritten filing a list of checks written on the account of Monnington Farm, LLC, not his own account, but there is one check payable to LG&E for \$1,172.50. In his written Response, he referenced that as having already been paid, the bill in full. It is staff's impression that Mr. Tapp perhaps has confused his liability under the Act for a civil penalty with any amount that was due to the operator.

11:31:28 AM	Chairman Schmitt - witness Tout Note: Warfield, KaBrenda	Did Louisville Gas & Electric, Mr. Tout, ever indicate to you or to anyone else in the Division of Inspections what their estimate of the damage to this line was? I know on some I've seen, in some of these cases, there's a monetary amount set out as to what, I guess, the damage estimate was. I just wondered if this check, in fact, was for the damages or for something else. Perhaps, it was even his idea as to what the civil penalty would be. Whatever it is, if anything, he sent it to Louisville Gas & Electric and not the Commission, correct?
11:32:44 AM	Chairman Schmitt - witness Tout Note: Warfield, KaBrenda	His answer or his "To Whom It May Concern" written statement signed by him and dated July 22, 2019, apparently received here at the PSC on July 23, 2019. His check dated to Louisville Gas & Electric was December 4, 2018, so I don't know if he paid the wrong people or he didn't pay anything at all. The check was on someone other than Mr. Tapp, correct?
11:33:33 AM	Chairman Schmitt - witness Tout Note: Sacre, Candace	Monnington Farm, LLC. Now, my impression from the file and from your testimony, or my interpretation of it is, is that Mr. Tapp owned the company or the entity, he was the person who was basically doing the work, and he was operating the backhoe or piece of the equipment that basically caused the damage to the line, is that correct?
11:34:13 AM	Chairman Schmitt - witness Tout Note: Warfield, KaBrenda	So he was the one operating the equipment that damaged the line?
11:34:17 AM	Chairman Schmitt - witness Tout Note: Sacre, Candace	And, under the Act, as I understand it, he could be held liable for the damages that occurred?
11:34:25 AM	Chairman Schmitt Note: Warfield, KaBrenda	Nothing further.
11:34:30 AM	Staff Atty Park PSC Note: Sacre, Candace	I have no further questions.
11:34:32 AM	Chairman Schmitt Note: Sacre, Candace	Alright. This hearing is hereby adjourned, and I think we have one more left.
11:34:42 AM	Session Ended	



## Exhibit List Report

2019-00163 09Aug2019

George Tapp

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**Name:**

**Description:**

PSC Exhibit 01

Pipeline Damage Investigation Report

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

<b>KY PSC Investigator(s)</b> Eric V. Tout	<b>Incident ID</b> 21015
<b>Incident Date</b> 9/7/2018 12:38:00 PM	<b>Report Submitted</b> 10/5/2018 10:53:29 AM

## OPERATOR INFORMATION

<b>Operator</b> Louisville Gas and Electric Company <b>Phone</b> (502) 364-8724 <b>Incident Location</b> 352 Conner Station Rd Simpsonville, KY 40067  Shelby	<b>Reported By</b> Paul Stratman <b>Email</b> Paul.Stratman@lge-KU.com <b>Locate Ticket Number</b> N/A
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## EXCAVATOR INFORMATION

<b>Name of Excavator</b> George, Tapp  <b>Phone</b> 502-257-3264 <b>Excavator Address</b> George Tapp Excavation 102 Rolling Ridge Way Simpsonville, KY 40067	<b>Organization ID</b> N/A  <b>Email</b> <b>Locate Ticket Number</b>
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### Incident:

Excavator was working without locates and damaged a 1/2" gas service.

### Investigation:

On 04/04/19 the Excavator, George Tapp, was contacted and stated that he obtained no Locate Ticket Number from 811. Mr. Tapp stated that while excavating he hit a gas service line. Mr. Tapp stated that the above noted Incident Location property he was operating on belonged to Lionel (no last name provide or contact information) and he was unable to state if Lionel obtained a Locate Ticket Number. Mr. Tapp was informed of the 811 regulations, he was offered the standard \$250.00 fine and attendance to the 811 education course. Mr. Tapp stated that he could not afford said fine and stated that Lionel was responsible.

### Violation:

KRS 367.4911(1)(a) Excavator or person responsible for excavation to notify operator of work schedule - Responsibilities of excavator. 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.

PSC Exhibit   1

George Tapp  
102 Rolling Ridge Way  
Simpsonville, KENTUCKY 40067