

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PRODIGY CONSTRUCTION CORPORATION, INC.)
– ALLEGED VIOLATION OF UNDERGROUND) CASE NO. 2019-00168
FACILITY 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;
- 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, and hearing log 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. A minimal fee will be assessed for a copy of this recording.

Done at Frankfort, Kentucky, this 22nd day of August 2019.

Gwen R. Pinson

Gwen R. Pinson
Executive Director
Public Service Commission of Kentucky

Sean Mattingly
Prodigy Construction Corporation, Inc.
11106 Decimal Drive
Louisville, KENTUCKY 40229

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BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PRODIGY CONSTRUCTION CORPORATION,)	
INC. – ALLEGED VIOLATION OF)	CASE NO.
UNDERGROUND FACILITY DAMAGE)	2019-00168
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 19th day of August, 2019.



KaBrenda L. Warfield

KaBrenda L. Warfield, CKP
Paralegal Consultant

Jacqueline 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 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 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

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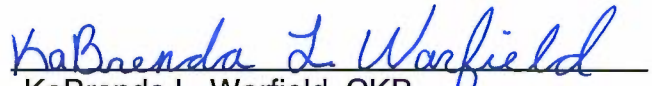
PRODIGY CONSTRUCTION CORPORATION,)	
INC. – ALLEGED VIOLATION OF)	CASE NO.
UNDERGROUND FACILITY DAMAGE)	2019-00168
PREVENTION ACT)	

CERTIFICATION

I, KaBrenda L. Warfield, hereby certify that:

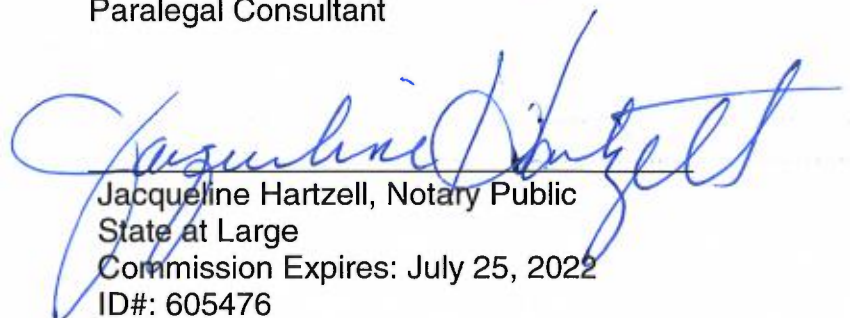
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2. I am responsible for the preparation of the digital recording;
3. The digital recording accurately and correctly depicts the Hearing of August 09, 2019.
4. The Hearing Log attached to this Certificate accurately and correctly states the events that occurred at the Formal Hearing of August 09, 2019 and the time at which each occurred.

Signed this 21st 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: Sean Mattingly
 Judge: Michael Schmitt
 Clerk: KaBrenda Warfield

Event Time	Log Event	
10:42:26 AM	Session Started	
10:42:27 AM	Chairman Schmitt Note: Warfield, KaBrenda	We are back on the record and the next case is 2019-00168 Prodigy Construction Corporation, Inc. for the record after we adjourned the previous hearing it became apparent to the Commission that Prodigy had overlooked the fact that the initiating order in this case advised them that an attorney would be required to practice this case before the Commission.
10:42:28 AM	Chairman Schmitt Note: Warfield, KaBrenda	We are now back on the record in Case No. 2019-00168.
10:43:20 AM	Chairman Schmitt Note: Warfield, KaBrenda	And that Mr. Mattingly who is Prodigy's witness in the case is not an attorney. And I advised him before we went on the record that any action by him in this case on behalf of his employer would constitute the unauthorized practice of law. And that Prodigy needed and attorney to go forward with the case if they want to present a defense.
10:43:49 AM	Chairman Schmitt Note: Warfield, KaBrenda	So we looked at days in the future when this case could be set. And found that the next scheduled hearing date would be September 27th and Mr. Mattingly is not available then because he will be out of state.
10:44:10 AM	Chairman Schmitt Note: Warfield, KaBrenda	And since he is the witness he told us that he could be here on October 25, 2019 at 9am if the case were rescheduled at that time. Is that correct Mr. Mattingly?
10:44:26 AM	Chairman Schmitt Note: Warfield, KaBrenda	I learned that apparently pursuant to some type of previous agreement Prodigy Construction Corp. had agreed to pay a \$250 civil penalty and appear at a Public Service Commission sponsored training class. But Prodigy missed the first class due to something beyond its control.
10:45:04 AM	Chairman Schmitt Note: Warfield, KaBrenda	We will continue this hearing until October 25, 2019 at 9am here in Frankfort. But if Prodigy will have a representative appear for a training at the next scheduled training class which is September the 9th at 1pm here in this same room an Order will be entered dismissing this case as having been settled.
10:45:46 AM	Chairman Schmitt Note: Warfield, KaBrenda	But those will be the terms. [Click on the link for Chairman Schmitt's remarks.]
10:46:46 AM	Chairman Schmitt Note: Warfield, KaBrenda	Is there anything else Mr. Park that you would like to add?

10:46:51 AM	Chairman Schmitt Note: Warfield, KaBrenda	Mr. Mattingly anything that you would like to say before we adjourn this proceeding?
10:47:05 AM	Chairman Schmitt Note: Warfield, KaBrenda	This hearing is adjourned. [Click on the link for Chairman Schmitt's remarks.]
10:47:24 AM	Chairman Schmitt Note: Warfield, KaBrenda	We will now be in recess until ten minutes until eleven o'clock.
10:47:33 AM	Session Ended	

Sean Mattingly
Prodigy Construction Corporation, Inc.
11106 Decimal Drive
Louisville, KENTUCKY 40229