

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

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 February 28, 2020 in this proceeding;
- Certification of the accuracy and correctness of the digital video recording;
- All exhibits introduced at the evidentiary hearing conducted on February 28, 2020 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 February 28, 2020.

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/KNWna-TimgE>.

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 23rd day of June 2020.



Kent A. Chandler
Executive Director
Public Service Commission of Kentucky

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

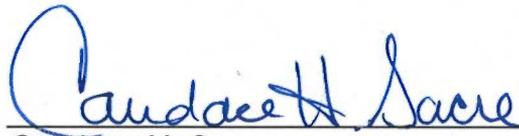
UNDERGROUND AMERICA, INC. –)	CASE NO.
ALLEGED VIOLATION OF UNDERGROUND)	2019-00338
FACILITY DAMAGE PREVENTION ACT)	

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 February 28, 2020. The Formal Hearing Log, Exhibit List, and Witness List are included with the recording on February 28, 2020;
2. I am responsible for the preparation of the digital recording;
3. The digital recording accurately and correctly depicts the Formal Hearing of February 28, 2020; and
4. The Formal Hearing Log attached to this Certificate accurately and correctly states the events that occurred at the Formal Hearing of February 28, 2020, and the time at which each occurred.

Signed this 12th day of June, 2020.



Candace H. Sacre
Administrative Specialist III



Stephanie Schweighardt
Notary Public State at Large
Commission Expires: January 14, 2023
ID#: 614400



Session Report - Detail

2019-00338 28Feb2020

Underground America, Inc.

Date:	Type:	Location:	Department:
2/28/2020	Show Cause Hearing	Hearing Room 1	Hearing Room 1 (HR 1)

Witness: John Gowins
 Judge: Michael Schmitt
 Clerk: Candace Sacre

Event Time	Log Event	
9:15:10 AM	Session Started	
9:15:14 AM	Chairman Schmitt Note: Sacre, Candace	We're now on the record, and this is the Kentucky Public Service Commission, and we're here this morning to hold a hearing on Case No. 2019-00338, Underground America, Inc.
9:15:32 AM	Chairman Schmitt Note: Sacre, Candace	The claim is that Underground America, Inc., essentially, damaged a natural gas line owned by Louisville Gas & Electric Company. Apparently, they called 8-1-1. The line was accurately marked, but apparently they bored into the line while attempting to install telecom fiber. Is that correct?
9:16:15 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Yes, Your Honor, that is correct.
9:16:17 AM	Chairman Schmitt Note: Sacre, Candace	Is anyone here on behalf of Underground America, Inc.?
9:16:21 AM	Chairman Schmitt Note: Sacre, Candace	Has Underground America, Inc. been served with the Initiating Order?
9:16:27 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Yes, Your Honor, the records in this case indicate that Michael Tarabula, who is the president and registered agent for Underground America, he was served on December the 10th, 2019, with the Initiating Order, and the Scheduling Order was then mailed to the same address where he was served with the Initiating Order on January the 14th.
9:16:54 AM	Chairman Schmitt Note: Sacre, Candace	All right, and so if Mr. Tarabula is not here and no one is here on behalf of Underground America, Inc., we'll go ahead and move forward with the hearing, they having been served, so would you like to call your first witness?
9:17:12 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Thank you, Your Honor. Division of Inspections calls John Gowins.
9:17:23 AM	Chairman Schmitt Note: Sacre, Candace	Witness is sworn.
9:17:32 AM	Chairman Schmitt Note: Sacre, Candace	Counsel?
9:17:33 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Thank you.
9:17:34 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins Can you state your name for the record?
9:17:40 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins Mr. Gowins, what's your current employment?

9:17:49 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins And, in your position, what is your role in administering the Commission's program to enforce the Underground Facility Damage Prevention Act?
9:18:25 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins Are you familiar with an incident of damage to an underground natural gas facility that took place on January 10th, 2019, at 17209 Ash Hill Drive in Louisville, Kentucky?
9:18:40 AM	Staff Atty Frederick PSC Note: Sacre, Candace	May I approach, Your Honor?
9:18:42 AM	Chairman Schmitt Note: Sacre, Candace	Yes, you may.
9:19:11 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins Does this appear to be a true and accurate copy of the report received by the Division of Inspections from Louisville Gas & Electric concerning the incident on Ash Hill Drive?
9:19:25 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins And was the underground facility involved in this incident containing natural gas that did escape into the atmosphere when the damage occurred?
9:19:37 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins And what did you do following the receipt of this report?
9:20:00 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Your Honor, may I approach?
9:20:02 AM	Chairman Schmitt Note: Sacre, Candace	Yes, you may.
9:20:23 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Your Honor, the report from Louisville Gas & Electric has previously been filed, and I would ask that it be admitted as DOI's Exhibit 1.
9:20:34 AM	Chairman Schmitt Note: Sacre, Candace	Sustained.
9:20:35 AM	PSC DIVISION OF INSPECTIONS Note: Sacre, Candace Note: Sacre, Candace	EXHIBIT 1 STAFF ATTY FREDERICK PSC - WITNESS GOWINS INCIDENT 31318 LG&E GAS EXCAVATION DAMAGE REPORT
9:20:38 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 the investigation involving this incident?
9:20:48 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Your Honor, this has previously been filed, and I would ask that it be admitted as DOI's Exhibit 2.
9:20:53 AM	Chairman Schmitt Note: Sacre, Candace	Sustained.
9:20:54 AM	PSC DIVISION OF INSPECTIONS Note: Sacre, Candace Note: Sacre, Candace	EXHIBIT 2 STAFF ATTY FREDERICK PSC - WITNESS GOWINS INCIDENT 31318 PIPELINE DAMAGE INVESTIGATION REPORT
9:20:56 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins Could you describe your investigation and the results of it?
9:21:33 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins And what violation did you determine occurred involving this incident?
9:21:50 AM	Staff Atty Frederick PSC - witness Note: Sacre, Candace	Gowins Can you describe that incident and how your investigation determined the damage did occur?

9:22:14 AM	Staff Atty Frederick PSC - witness Gowins Note: Sacre, Candace	And, to the best of your knowledge, what was the estimated cost to repair that damage?
9:22:27 AM	Staff Atty Frederick PSC - witness Gowins Note: Sacre, Candace	I would direct your attention to the operator report on page 2. Down at the bottom, where it says "Cost of the damage," could you read that for us?
9:22:41 AM	Staff Atty Frederick PSC - witness Gowins Note: Sacre, Candace	And has the Division of Inspections received any response to the demand letter?
9:22:52 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Thank you, Your Honor. I have no further questions.
9:22:57 AM	Chairman Schmitt - witness Gowins Note: Sacre, Candace	Underground America, Inc., Mr. Gowins, was, it says here, apparently installing telecom fiber. Do you know, at this time, for whom they were working as a contractor?
9:23:22 AM	Chairman Schmitt - witness Gowins Note: Sacre, Candace	So you don't know who they were - the reason I ask is, I assume that Louisville Gas & Electric or someone would know that. They were contacted - Louisville Gas & Electric - correct me if I'm wrong. Somebody, either Underground America or the company for whom Underground America was working, contacted Louisville Gas & Electric and asked if they had any facilities, underground pipelines, in the area of the work to come out and mark those lines, correct?
9:24:01 AM	Chairman Schmitt - witness Gowins Note: Sacre, Candace	And Louisville Gas & Electric actually came out and marked the line?
9:24:11 AM	Chairman Schmitt - witness Gowins Note: Sacre, Candace	As far as you know, in the evidence, they provided the markings?
9:24:17 AM	Chairman Schmitt - witness Gowins Note: Sacre, Candace	And, when the markings are placed on the ground, the company doing the excavating is supposed to either hand dig or use nonintrusive means in order to basically do their work, trenching or whatever, correct?
9:24:36 AM	Chairman Schmitt - witness Gowins Note: Sacre, Candace	And, in the process of doing this, they were using mechanized equipment and actually damaged the gas line in any event, is that correct?
9:24:58 AM	Chairman Schmitt - witness Gowins Note: Sacre, Candace	AT&T?
9:25:04 AM	Chairman Schmitt - witness Gowins Note: Sacre, Candace	Do you know, at this time, who actually made the call, which entity made the call, whether it was Underground America or AT&T or both?
9:25:29 AM	Chairman Schmitt - witness Gowins Note: Sacre, Candace	I would suggest that, at some point, maybe in order to get additional information on Underground America that perhaps AT&T could provide you with some method where they could become aware of the fact that this order imposing a penalty is going to be assessed against them, and perhaps AT&T can either take care of the payment or withhold the funds, assuming they get an order.
9:26:07 AM	Chairman Schmitt - witness Gowins Note: Sacre, Candace	One other question. If they were doing work for AT&T, under the Act, is AT&T potentially responsible for this damage?
9:26:27 AM	Chairman Schmitt Note: Sacre, Candace	No further questions. May this witness be excused?

9:26:31 AM	Staff Atty Frederick PSC Note: Sacre, Candace	Yes, Your Honor.
9:26:32 AM	Chairman Schmitt Note: Sacre, Candace	Okay, you may step down, Mr. Gowins.
9:26:33 AM	Chairman Schmitt Note: Sacre, Candace	Any other witnesses, Ms. Frederick?
9:26:37 AM	Staff Atty Frederick PSC Note: Sacre, Candace	No, Your Honor, no other witnesses today.
9:26:40 AM	Chairman Schmitt Note: Sacre, Candace	An order will be entered sometime next week in this case, and this case is hereby adjourned.
9:26:56 AM	Session Ended	



Parties List Report

2019-00338 28Feb2020
Underground America, Inc.

Witness:

Full Name: John Gowins



Exhibit List Report

2019-00338 28Feb2020
Underground America, Inc.

Name:	Description:
PSC Division of Inspections Exhibit 1	Incident 31318 LG&E Gas Excavation Damage Report
PSC Division of Inspections Exhibit 2	Incident 31318 Pipeline Damage Investigation Report

Gas Excavation Damage Report

Louisville Gas and Electric Company

Submitted 2/8/2019 Incident ID: 31318

[Set back to Edit](#) [Staff Edit](#)[Print \(PDFForm.aspx?Rpt=GasInvestigation&IG=31318\)](#)

Reported By:

Name: Mike Jones
Phone: (502) 364-8281
Email: Mike.Jones@lge-KU.com

Gas Line Incident Occured:

Date: 1/10/2019
Time: 1:35 PM

Details:

Reported Date: 2/8/2019 10:03 AM

Incident Location Address:

Location:
Address: 17209 Ash Hill Dr
City: Louisville
State: KY
County: Jefferson
Zip: 40245
Confirm Code: Y
Number of Customers out: 3
Locate Request Ticket No.: 1812270621
Excavator: Contractor

Excavator Address:

First Name: Marten
Last Name: Deleen
Organization ID:
Company: Underground America Inc
Phone: 404-925-4835
Email:
Address: 3111 Moon Station Rd NW Unit B
City: Kennesaw
State: GA
Zip: 30144

**PSC DIVISION OF INSPECTIONS
EXHIBIT 1**

Confirm Code: S

Excavation Damage: Other insufficient excavation practices

Description of Incident Excavator damaged 2" plastic main with punch.

Summary Information

2/8/2019

Full details such as the cause	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.
Extent of the damage	7' of 2" plastic gas main had to be replaced.
Cost of the damage	\$2,082.00
Steps taken to prevent re-occurrence	Instructed excavator to be more mindful of proximity of activity to gas main. Offered to meet with employees to discuss 811 and safe digging practices.
Amount billed to excavator	\$0.00

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

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

OPERATOR INFORMATION

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

EXCAVATOR INFORMATION

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

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
700 White Road
white, GEORGIA 30184