

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)	

ORDER

Pursuant to KRS 278.495(2), the Kentucky Public Service Commission (Commission) has jurisdiction to regulate the safety of natural gas facilities in Kentucky and to enforce minimum federal pipeline safety standards. Under the Kentucky Underground Facility Damage Prevention Act (Act), KRS 367.4901 through KRS 367.4917, 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, 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 Inc. (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 on or before October 21, 2019.
2. Underground America shall appear on November 22, 2019, at 9 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky for the purpose of presenting evidence concerning the alleged violation of the Underground Facility Damage Prevention Act, and showing cause why it should not be subject to the penalties prescribed in KRS 367.4917(1) and (4) for this alleged violation.
3. A person shall not file a paper or appear at a hearing on behalf of, or otherwise represent, a partnership, corporation, or business entity (including a limited

liability company) or other person unless the person is an attorney licensed to practice law in Kentucky.

4. The November 22, 2019 hearing shall be recorded by video only.

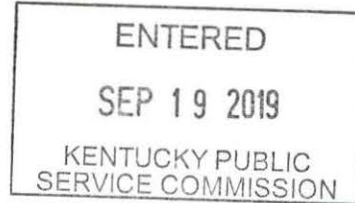
5. The Staff Incident Report in the Appendix to this Order is made a part of the record in this case.

6. This Order shall be served via certified mail, return receipt accepted, to Underground America Inc., 3111 Moon Station Road, Suite 200, Kennesaw, Georgia 30114, and c/o Michael Tarabula, Registered Agent, 700 White Road, White, Georgia 30184.

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By the Commission

Commissioner Talina Mathews did not participate in this case.



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00338 DATED **SEP 19 2019**

TWO PAGES TO FOLLOW

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
, GEORGIA 30184

Underground America Inc.
3111 Moon Station Road Suite 200
Kennesaw, GEORGIA 30114