COMMONWEALTH OF KENTUCKY BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:		
MATTHEW FREEMAN)	
)	CASE NO. 2022-00165
ALLEGED VIOLATION OF UNDERGROUND FACILITY DAMAGE PREVENTION ACT)	2022 00100

INITIATING ORDER FOR ALLEGED 811 VIOLATION OF THE KENTUCKY UNDERGROUND FACILITY DAMAGE PREVENTION ACT

Matthew Freeman (Mr. Freeman) has been named as a party to an investigation before the Kentucky Public Service Commission (Commission) for allegedly violating the Kentucky Underground Facility Damage Prevention Act (Act).¹ A hearing in this case shall take place on September 30, 2022.

Pursuant to KRS 278.495(2), the Commission has jurisdiction to regulate the safety of natural gas facilities in Kentucky and to enforce minimum federal pipeline safety standards. Under the Act, 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

¹ KRS 367.4901 through KRS 367.4917.

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 Appendix A. In its Incident Report, Staff cites Mr. Freeman for violation of the following provision of the Act:

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.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds prima facie evidence that Mr. Freeman violated the Underground Facility Damage Prevention Act. The Commission further finds that a formal investigation into the excavation damage incident shall be conducted.

IT IS THEREFORE ORDERED that:

- 1. Mr. Freeman shall submit to the Commission, via email sent to PSCED@ky.gov with the case number of this proceeding in the subject line of the message, a written response to the allegations contained in the Staff Incident Report within 20 days of receipt of this Order.
- 2. Mr. Freeman shall appear on September 30, 2022, at 9 a.m. Eastern Daylight Time, in the Richard Raff Hearing Room 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.

- 3. The September 30, 2022 hearing shall be conducted via video conferencing.
- 4. Mr. Freeman shall attend the hearing by using the following link: https://global.gotomeeting.com/join/308551245; information and instructions are attached to this Order as Appendix B.
- 5. Mr. Freeman shall notify the Commission at least ten days prior to the hearing if Mr. Freeman is unable to appear by video conferencing and will therefore appear in person.
- 6. Any partnership, corporation, or business entity (including a limited liability company) must be represented by an attorney licensed to practice law in Kentucky, and such representation includes the filing of papers with and appearances at hearings before the Commission.
- 7. An individual may submit a response to the allegations contained in the Staff Incident Report without the representation of an attorney.
- 8. The Staff Incident Report 43284, attached to this Order as Appendix A, is made a part of the record in this case.
 - 9. The September 30, 2022 hearing shall be recorded by video only.
- 10. Please note parties who fail to appear after service will be subject to entry of a default judgment against them.

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner

ENTERED

AUG 22 2022

rec

KENTUCKY PUBLIC SERVICE COMMISSION

ATTEST:

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2022-00165 DATED AUG 22 2022

NINETEEN PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

Investigation Information

Investigator Eric Tout Incident ID 43284 Investigation 8228

Incident Date 11/20/2020 7:30:00 PM Report Submitted 12/15/2020

Operator Information

Louisville Gas and Electric

Operator Company (LG&E) Reported By Mike Jones

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

Incident Location 2420 W Muhammad Ali Blvd Locate Ticket Number NA

Louisville KY 40212

County Jefferson

Excavator Information

Excavator Matthew Freeman Organization ID

Matthew Freeman

Phone 502-450-2450 **Email**

Address 3911 W Broadway Locate Ticket Number NA

Louisville KY 40211

Damage Report (DR) Summary

Gas Or Hazardous Liquids		Type Of Equipment Used	Cost of	Amount	
Excavation Within18" (Approximate Location)	Contained	Released		Damage	Billed
No call to 811	Yes	Yes	Not Specified	\$545.00	\$0.00

The Operator reports that the Excavator damaged a ½ inch gas service removing a retaining wall and failed to contact the KY Contact Center (811). The Operator indicates prior to the damage a neighbor called the Public Service Commission, who called LG&E to report the Excavator digging without a Locate Ticket (LT). LG&E, Steve Delap, made a courtesy stop, he explained the Dig Law to the Excavator, Matthew Freeman, and advised Mr. Freeman to contact 811 before proceeding with any more excavating. The DR is included as Attachment 1.

INVESTIGATION

On 12/03, 06 & 07/21 attempts to contact the Excavator at 502-450-2450 resulted in a busy signal.

On 12/07/21 a Letter to Contact was sent to the Excavator.

The Letter to Contact is included as Attachment 2.

On 12/20/21, via email, the Operator, LG&E's Mike Jones, stated that the Excavator has not paid for the damage and this incident has been sent to collections. Mr. Jones provided the following documents:

- <u>Invoice:</u> Billing the Excavator \$545.00 for the repair of the damage.
- Incident Field Investigation Report: Which is outlined above (see Attachment 1 and DR Summary).
- <u>Facts-Based Investigation w/ Photographs:</u> Which is outlined above (see Attachment 1 and DR Summary) and the photographs depict the incident location.

LG&E's documents are included as Attachment 3.

As of 01/04/22 no contact has been made by the Excavator, therefore a Demand Letter requiring the attendance to the Damage Prevention Course and imposing the reduce penalty of \$250.00 will be sent.

PIPELINE DAMAGE INVESTIGATION REPORT

VIOLATIONS

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.

of Offences

(Including this incident)

Excavator	Last Offence Incident #	Last Offence Incident Date	Revert to 1st Offence Date (Last Offence Date +365 Days)
1 st	N/A	N/A	N/A



Gas Excavation Damage Report

Louisville Gas and Electric Company

Submitted 12/15/2020 Incident ID: 43284

Set back to Edit Staff Edit

Print (PDFForm.aspx?Rpt=GasInvestigation&IG=43284) Reported By: Name: Mike Jones (502) 364-8281 Phone: Email: Mike.Jones@lge-KU.com Gas Line Incident Occured: 11/20/2020 Date: Time: 7:30 PM Details: Reported Date: 12/15/2020 9:56 AM Incident Location Address: Location: Address: 2420 W Muhammad Ali Blvd City: Louisville State: KY County: Jefferson 40212 Zip: Confirm Code: Number of Customers out: Was gas or hazardous liquids contained in the underground facility? Was gas or hazardous liquids released into the 3/2020 atmosphere? Locate Request Ticket No.: Excavator: Contractor **Excavator Address:** First Name: Matthew Last Name: Freeman Organization ID: Company: Matthew Freeman Phone: 502-450-2450 Email:

Address: 3911 W Broadway

City: Louisville

ΚY State:

40211 Zip:

Confirm Code:

Excavation Damage: No notification made to the One

Call Center

Description of Incident Demoing retaining wall at sidewalk, didn't see gas line?.

Summary Information

12/15/2020

Excavator damaged unmarked 1/2" pl company service while removing a Full details such as the retaining wall near the sidewalk. No BUD. Steve Delap with LG&E made a

courtesy stop earlier in the afternoon, prior to damage, and advised the

excavator to call 811. Excavator is flipping the property.

Extent of the damage Damaged 1/2" plastic gas service

Cost of the damage \$545.00

The "steps to prevent reoccurance" happened earlier in the day before the damage. A neighbor called the PSC, who called LG&E to report contractor Steps taken to prevent digging without locates. LG&E reached out to Steve Delap who made a

courtesy stop. Steve said he explained the Dig Law to Mr. Freeman and advised him to contact 811 before proceeding with any more excavating.

Amount billed to excavator

re-occurance

\$0.00



Andy Beshear Governor

Rebecca W. Goodman Secretary Energy and Environment Cabinet



Commonwealth of Kentucky

Public Service Commission
211 Sower Blvd.
P.O. Box 615

Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Kent A. Chandler Chairman

Amy D. Cubbage Vice Chairman

Marianne Butler Commissioner

December 7, 2021

Matthew Freeman 3911 W. Broadway Louisville KY 40211

Re: Violation of Kentucky Underground Facility Damage Prevention Act

Incident Number: 43284

Dear Mr. Freeman:

The Kentucky Public Service Commission (Commission) received a report of damage occurring on November 20, 2020 to a natural gas or hazardous liquid facility located at 2420 W Muhammad Ali Blvd., Louisville, KY 40212, owned and/or operated by Louisville Gas and Electric Company. Under the Kentucky Underground Facility Damage Prevention Act (Act), KRS 367.4901 through KRS 367.4917, the Commission has jurisdiction to investigate any violation of the Act that results in excavation damage to underground facilities used to transport gas or hazardous liquid subject to federal pipeline safety laws, 49 U.S.C. secs. 60101 et seq. The Commission regulates the safety of jurisdictional natural gas pipelines in the Commonwealth pursuant to KRS 278.495 and 49 CFR Parts 190, 191, 192 and 195.

Following receipt of the damage notification, Commission Staff (Staff) attempted to contact you at 502-450-2450 which has been disconnected, is out of service, not accepting calls and/or the mailbox is full. To obtain all information regarding this matter it is imperative that contact is made. If there is no contact a penalty of \$1,250.00 could be imposed, therefore please contact me at 502-782-2622.

Respectfully,

Eric V. Tout

Consumer Complaint Investigator

Division of Inspections / Damage Prevention

For	delivery in	formation, v	isit our we	bsite at we	vw.usps.com®.
	OF	F1(CIA		USE
Retuined Adult Adult Adult Adult Adult Postage \$ 4 Total P	rn Receipt (har m Receipt (ele iffed Mail Restr it Signature Rec it Signature Rec in Application of the postage and o 23	ctronic) \$ icted Delivery \$ quired \$ stricted Delivery \$	2021		Postmark Here

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON	DELIVERY 400	
 Complete items 1, 2, and 3. Two 43784 Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature 10 DEC 2 X B. Received by (Printed Name)	☐ Agent☐ Addressee☐ C. Date of Delivery	
Matthew Freeman 39T1 W. Broadway Louisville KY 40211	D. Is delivery address different from item 1? Yes If YES, enter delivery address below: No		
9590 9402 6901 1104 3987 41 2. Article Number (Transfer from service label) 7020 3160 0001 8129 6385	3, Service Type 10, Adult Signature 11, Adult Signature Restricted Delivery 12, Certified Mail® 13, Certified Mail® 14, Certified Mail® 15, Certified Mail® 16, Certified Mail® 17, Collect on Delivery 18, Collect on Delivery Restricted Delivery 18, Vall 18, Vall 10, Certified Mail® 18, Certified Delivery 19, Vall 10, Certified Delivery 10, Cer	□ Priority Mail Express® □ Registered Mail™ □ Registered Mail Restricted Delivery □ Signature Confirmation™ □ Signature Confirmation Restricted Delivery	
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt	



Tout, Eric V (PSC)

From: Jones, Mike (Auburndale) < Mike.Jones@lge-ku.com>

Sent: Monday, December 20, 2021 8:16 AM

To: Tout, Eric V (PSC)

Subject: RE: 43284, 11/20/2020, 2420 W Muhammad Ali Blvd., Louisville, Matthew Freeman

Attachments: 2020120104.pdf; #43284 - 2420 W. Muhammad Ali - 11202020.pdf

CAUTION PDF attachments may contain links to malicious sites. Please contact the COT Service Desk ServiceCorrespondence@ky.gov for any assistance.

Eric,

Attached are 2 different reports and the invoice sent to the excavator. The excavator has not paid and the invoice has been sent to our collections agency.

From: Tout, Eric V (PSC) <ericv.tout@ky.gov>
Sent: Wednesday, December 15, 2021 9:59 AM

To: Jones, Mike (Auburndale) < Mike. Jones@lge-ku.com>

Subject: 43284, 11/20/2020, 2420 W Muhammad Ali Blvd., Louisville, Matthew Freeman

EXTERNAL email. STOP and THINK before responding, clicking on links, or opening attachments.

Hello Mike,

Please provide damage photos, reports, billing info and payment (canaled check) info.

Thanks, Eric V. Tout Kentucky Public Services Commission Division of Inspections / Damage Prevention 211 Sower Blvd., Frankfort, KY 40601 Office: 502-782-2622

Fax: 502-564-1582

addressed or copied. It may contain material of confidential and/or private nature. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is not allowed. If you received this message and the information contained therein by error, please contact the sender and delete the material from your/any storage medium.



Invoice

Louisville Gas and Electric Company

820 West Broadway Louisville, KY 40202

Attn: Remittance and Collection

800-928-1340

INVOICE DATE: 12/03/2020

REFERENCE

OTPD419

NO.:

DTS INVOICE

2020120104

NO.:

AMOUNT DUE:

\$545.30

DUE DATE: 01/02/2021

FREEMAN, MATTHEW 3911 WEST BROADWAY STREET LOUISVILLE KY 40211

PLEASE RETURN TOP PORTION WITH YOUR PAYMENT PLEASE INCLUDE INVOICE NUMBER ON ALL REMITTANCES

COST TO REPAIR: Damaged Customer Gas Service

DAMAGE DATE: 11/20/2020

DAMAGE LOCATION: 2420 W Muhammad Ali Blvd

Louisville, KY 40212

LABOR HOURS: 7.00

LABOR COST: \$462.30

MATERIAL COST: \$37.72

TRANSPORTATION/EQUIPMENT COST: \$45.28

CONTRACTOR COST: \$0.00

OTHER DAMAGE COSTS: \$0.00

TOTAL DUE: | \$545.30



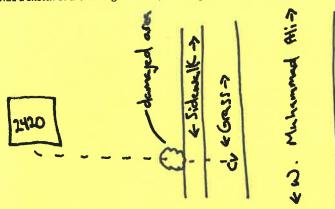
Resp. CII.
Date of incident 11 20 20 Time 7:45
Address/Joration of damage 2420 W. Address/Joration
Subdivision name
Who caused damage? Matthew Freeman a.m.
Address of party causing damage 3911 W. Bradesy Louisville KY 40211 (Street) (City) (State) (ZIP)
Phone number of party causing damage () 450 - 2450
Was party causing damage still on the job? Yes No If yes, who was in charge?
If no, how did you obtain name of party causing damage?
1/6
What type of work was being performed? Demoins Company service Other
Party's explanation for damage Didn't see gas line. What repairs were made? 2 - 12" IPS Permakerts w piece of 12" IPS pipe
What repairs were made? 2 - 1/2" IPS Permaserts w piece of 1/2" TOS cine
Any additional work to be performed?
Number of customers out
Possible damage to others
Date of incident Time a.m. p.m.
What was damaged? 🗀 a.m. 🗀 p.m.
What was LG&E doing at this location?
Description of damage
Owner of property Phone ()
Owner's address(Area code) (Number)
(Street) (City) (Street) (200)
To whom was damage reported?
Was an LG&E contractor notified? Yes No If yes, name of contractor
is the LG&E contractor responsible for the damage?
Were photos taken? Yes No If yes, from whom can the photos be obtained?
Nere there any injuries? Yes No If yes, name of injured party
Were there any witnesses to the incident?
Name Address Phone
BUD/KY 811/VA 811 information
BUD number and requesting party's name No TWS
Vere facilities marked? ☐ Yes X No Did excavator agree? X Yes ☐ No
yes, were facilities properly marked?
no, now were they mismarked? (be specific)
/as line locating contractor on the job?
11 20 20 E028997
(Employee number)
Approved

Put any additional comments on back

Comments	Repaired	service	ادر	2-1/2" IPS	permisents	and	1/2"	TPS	pipe Tested
6 10	opsing for	10mins	- 00	•					pipe. Tested

Crew Personnel	Employee #	ST Hours	OT Hours	DT Hours	Unit #	Equip	ment
	E028554	2_			8054	☐ Backhoe	☐ Kubota
Terrany Lucys Brayden Lunder	E028997	2	.5		4953	☐ Backhoe	Kubota
	6029539	2	.5			☐ Backhoe	☐ Kubota
Pariel Vanaway						☐ Backhoe	☐ Kubota
						☐ Backhoe	☐ Kubota
						☐ Backhoe	☐ Kubota
*						☐ Backhoe	☐ Kubota
						☐ Backhoe	☐ Kubota
						☐ Backhoe	☐ Kubota
						☐ Backhoe	☐ Kubota
						☐ Backhoe	☐ Kubota

Please provide a sketch of the damage location, including any locate markings.



Material Used									
Qty.	Material	IIN#							
	Pipe PE 2406: 1/2" IPS	1170051							
	Pipe PE 2406: 1" CTS	1170078							
	Pipe PE 2406: 1-1/4" IPS	0434843							
	Pipe PE 2406: 2" IPS	0459060							
	Pipe PE 2406: 4" IPS	0395160							
	1/2" IPS Permasert coupling	0394943							
		0394935							
	1" CTS Permasert coupling	0394894							
	2" IPS Electrofusion CPL	0394901							
	4" IPS Electrofusion CPL	0532951							
ea.		0530927							
	Flex Riser 1" male by 1/2" IPS	0530935							
	Flex Riser 1" male by 1" CTS	ARM WR 5695012							
	Farm tap (w/o regulator)								
ea.	Farm tap regulator (Fischer 627 with 1/8" diameter orifice)								
2	1/2" IPS permaserts								



Internal Claim ID:	ternal Claim ID: <u>INC-20201122-001</u>			Customer Claim ID:			
Site Investigator:	Tracy	Reesor		Notified At:	11/20/20 19:45:00		
Notified By:	Gas Opera	ations Disp	oatch 502589	91444			
Damage Location:	2420 W M	uhammad	Ali Blvd Lou	isville KY 40212			
Incident Time:	11/20/20 1	9:30:00					
Original Locate Req	uest: No	ne found		Assigned Locator:			
Locate Request Due:				Locate Request Completed:			
Photos Taken Befor	e Damage	? <u>N</u>					
Photos Taken of Damage Site? Y							
Type and Size of Da	maged Uti	lity: Natu	ural Gas Ser	vice/Drop 0.5			
Depth: 18" to < 36" (0.5				to < 1m)			
a retaining wall near the sidewalk. No BUD. Steve Delap with LG&E made a courtesy stop earlier in the afternoon, prior to damage, and advised the excavator to call 811. Excavator is flipping the property.							
Equipment Used:		Backhoe/	Trackhoe				
Excavation Compar	ny Name:	Matthew I	Freeman				
Company Address:		<u>3911 W. E</u>	Broadway, L	ouisville, KY 40211			
Phone:	5024	502450		Contact Name:	Matthew Freeman		
Working For:							
Repair Company:	LG&E						
Personal Injury: N	3rd	Party Prop	perty Dama	ge: <u>N</u> Evacuation	ons: N Other: N		
Impact Comments:							
Was Locate request	ted?:		<u>N</u>	Locate Request Comp	leted?: N		
Locate Accurate (W	ithin Toler	ance Zone	e): <u>N/A</u>	If No, Distance Markin	gs Off: N/A		
Marks Visible at Time of Damage: N				Damage Within Scope	of Ticket: N		



Repair Contact Name: Braye	den Lander	Phone:				
Repair Comments: Jeremy Lu	ucas was first responde	r				
Witness:		Phone:				
Comments:						
Witness:	_	Phone:				
Comments:						
Root Cause Explanation:						
Responsible Party: Matthew Freeman						
Responsible Party Comments	Responsible Party Comments: FYIEarlier this afternoon, a neighbor called the PSC who called LG&E to report contractor digging without locates. LG&E reached out to Steve Delap who made a courtesy stop. Steve said he explained the Dig Law to Mr. Freeman and advised him to contact 811 before proceeding with any more excavating. Neighbor called because there were no marks and flags!?!					
Date of Investigation:	11/22/20	Investigation Time (Hours):				
Site Investigator's Name:	Tracy Reesor	Phone:	5022694079			
Site Investigator's Signature:	Tracy Reesor	Date:	11/23/2020			
Damage Status:	One Call Notification I	ssue				
Cause Code:	No notification made to	o One-Call Center / 811				
Damage Claims Manager:						





























APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2022-00165 DATED AUG 22 2022

TWO PAGES TO FOLLOW

Information and Instructions for Hearing

You are required to attend a formal hearing with the Kentucky Public Service Commission. Please note the hearing is scheduled in the **Eastern Time Zone**, and the hearing date and time are on the Order that accompanied these instructions.

You are **strongly encouraged** to download the GoToMeeting app now and be ready for your hearing. If you cannot appear via video using this app, at least ten days prior to your scheduled hearing you must call the Commission's offices at the number provided below. You will receive instructions on appearing in person in the Richard Raff Hearing Room of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky at the time and date of your scheduled hearing.

Please direct any questions to Ashley Rhodes, Commission Division of Inspections. AshleyB.Rhodes@ky.gov or 502-782-2578.

To download the GoToMeeting app go to:

https://global.gotomeeting.com/install/258846301

On the day of your hearing using your computer, tablet, or video enabled smartphone. Access the proceeding at:

https://global.gotomeeting.com/join/308551245

More information about using GoToMeeting can be found at:

GoToMeeting - Attendee Quick Start

https://www.youtube.com/embed/8VaHHVP0FCU?autoplay=1&showinfo=0&controls=0&rel=0

GoToMeeting - How to Join a Meeting

https://www.youtube.com/embed/Ojl1q_sPrP0?autoplay=1&showinfo=0&controls=0&rel=0

Technical Requirements for Using GoToMeeting

Operating System:

Windows 7 – Windows 10

Mac OS X 10.9 (Mavericks) – mac OS Big Sur (11)

Linux/Ubunto (Web App only)

Google Chrome OS (Web App only)

iOS 11 – iOS 13

Android OS 5 (Lollipop) – Android 10

Web Browser: (Applies to Web App only)

Google Chrome v72 or newer

Microsoft Edge v77 or newer

Internet Connection:

Computer: 1 Mbps or better (broadband recommended)

Mobile device and Chromebook: 3G or better (WiFi recommended for VoIP)

Software:

GoToMeeting desktop app (JavaScript enabled)

GoToMeeting app from the Apple Store, Google Play Store, or Windows Store

Hardware:

2GB of RAM (minimum), 4GB or more of RAM (recommended)

Webcam device*

Microphone and speakers** (USB headset recommended)

Mobile Device:

iPhone 5 or newer

iPad 3rd gen or newer

Note: * You MUST have a camera on your device or connected to your device to appear at the hearing.

** Most devices have built-in speakers, but you will get better audio quality while connected via VoIP if you use a headset

Matthew Freeman 3911 W. Broadway Louisville, KENTUCKY 40211