COMMISSIONERS:
JASON SHAW, Chairman
TIM G. ECHOLS, Vice-Chairman
FITZ JOHNSON
LAUREN "BUBBA" McDONALD
TRICIA PRIDEMORE

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EXECUTIVE SECRETARY
G.P.S.C.

Georgia Public Service Commission

REECE McALISTER
EXECUTIVE DIRECTOR

SALLIE TANNER
EXECUTIVE SECRETARY

(404) 656-4501
(800) 282-5813

244 WASHINGTON STREET, SW
ATLANTA, GEORGIA 30334-5701

FAX: (404) 656-2341
psc.ga.gov

BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION
STATE OF GEORGIA

IN THE MATTER OF:

GUFPA CASE NO. PSC 20-18939

DOCKET NO. 43600

Tommy Luke Construction, L.L.C.,
Respondent

DOCKET# 43600
DOCUMENT# 219852

MAILED
9-10-2024

NOTICE OF HEARING AND PROCEDURAL AND SCHEDULING ORDER

To: **Tommy Luke Construction, L.L.C.**
Attn: Tommy Luke
303 Betty Jo Drive
Valdosta, GA 31602

You are hereby notified that the Georgia Public Service Commission ("Commission") will hold a hearing in the Hearing Room of the Commission, located at 244 Washington Street, S.W., Atlanta, Georgia 30334-5701, **commencing at 10:00 o'clock a.m. on October 23, 2024** and continuing on such further days as the Commission deems necessary until completed, for the purpose of hearing evidence regarding alleged violations of O.C.G.A. T. 25, Ch. 9, as set forth herein under the heading titled "Matters Asserted" that, if proven, may result in the imposition of a penalty against Tommy Luke Construction, L.L.C. (also referred to herein as "Respondents") in an amount not to exceed $10,000.00 per violation. Notification of the following matters is hereby given:

LEGAL AUTHORITY FOR HEARING

This hearing will be held under the authority and jurisdiction conferred upon the Commission by O.C.G.A. §25-9-13 and §46-2-91; and in accordance with the Georgia Administrative Procedure Act, O.C.G.A. §50-13, and the Rules and Regulations of the Commission.

PROCEDURES

The following are the procedures to which any party to this hearing should adhere with respect to this docket:

1. **Intervention:**

   (a) Any person or party upon whom a statute does not confer an unconditional right to intervene must file an application to intervene within thirty (30) days following the first published notice of the proceedings.

   (b) Applications must clearly specify the docket in which the applicant seeks to intervene. In addition to the requirements prescribed in O.C.G.A. §46-2-59 for applications for leave to intervene, the applicant must: (1) identify other intervening parties or intervening party applicants whose interest is similar to that of the applicant along with an explanation of why the identified intervening parties or intervening party applicant will not adequately represent the applicant's interest: and (2) state the applicant's present intention to submit direct testimony and by whom and on what subject. The requirements identified herein shall constitute a continuing obligation of the applicant or intervening party. Any objections to applications must be filed in accordance with O.C.G.A §46-2-59(d).

   (c) Any application for leave to intervene that is filed late must state the reason why such application was not filed within thirty (30) days of the first published notice. Objections to later intervention application must be filed in conformity with the requirements of O.C.G.A. §46-2-59(d).

   (d) The Commission will take up and rule on applications for leave to intervene at the first hearing date scheduled in this docket.

2. **Service:**

   In addition to filing an original and eight (8) copies of documents, with a 3.5" disk containing the electronic version of the document in either Microsoft Word for text documents or Microsoft Excel format for spreadsheets, with the Commission's Executive Secretary, copies of all pleadings, filings, correspondence, and any other documents related to, and submitted in, the course of this docketed matter should be served upon all other interveners recognized by the Commission in this docket.

3. **Hearing Exhibits:**

   It shall be the responsibility of the party sponsoring any hearing exhibits to see that the court reporter and all parties of record, in addition to the individual Commissioners or hearing officer, receive copies of all exhibits at the time of their introduction at the hearing.

RIGHTS OF RESPONDENT

Respondent have the following rights in connection with this hearing:

(1) To respond to the matters asserted in this document and to present evidence on any relevant issue;

(2) To be represented by counsel at its expense;

(3) To subpoena witnesses and documentary evidence through the Commission by filing requests with the Executive Secretary of the Commission; and

(4) Such other rights as are conferred by law and the rules and regulations of the Commission.

MATTERS ASSERTED

1.

The Commission has the power and authority to enforce the provisions of O.C.G.A. T, 25, Ch 9.

2.

The Commission Staff received reports of multiple probable violation of GUFPA alleging that on or about March 12, 2020, Respondent violated O.C.G.A. T. 25, Ch. 9. A copy of this report is attached hereto as Attachment A. The allegations contained in the report constitute violations of O.C.G.A. T. 25, Ch. 9.

STATUTES INVOLVED

25-9-6(a) Failure to contact the UPC before commencing excavation or blasting with mechanized equipment.

25-9-8(e) Failure to notify both the UPC and the affected utility facility owner/operator after a damage occurs

WHEREFORE, THE COMMISSION ORDERS that:

A. This Notice of Hearing and Procedural and Scheduling Order shall be served upon the Respondent by certified mail and shall constitute notice to the Respondent of the matters asserted pursuant to O.C.G.A. §50-13-13(a). A copy of this Order shall be served upon the Consumers' Utility Counsel pursuant to Commission Rule 515-2-1-.09; and public notice of this investigation and hearing shall be given by the Commission.

B. The Commission hereby adopts the schedule, procedures, and statements regarding the issues and matters asserted set forth within this Order.

C. A motion for reconsideration, rehearing, oral argument, or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

D. Jurisdiction over these matters is expressly retained for the purpose of entering such further Order or Orders as this Commission may deem just and proper.

E. The Commission hereby assigns this matter for hearing before its hearing officer, Nancy Gibson.

NOTICE: If Commission Staff determines to its satisfaction that the Respondent has satisfied the obligations of the prior Consent Order, Staff shall be authorized to *nolle prosequi* the Rule Nisi. No continuance or postponement of the above-scheduled hearing will be granted, except upon 72 hours' written notice and except for good cause shown. All requests for continuance should be addressed to Mr. Will Culbreath at Georgia Public Service Commission, 244 Washington Street, SW, Atlanta, Georgia 30334-5701 [facsimile # 404-463-6532] or via e-mail to wculbreath@psc.state.ga.us. Please include documentation in support of your request for continuance. If your presence is required in court or before a government agency on the hearing date scheduled in this Notice, you must provide a copy of the court or agency calendar or subpoena showing the date and time of the conflicting hearing. Only upon receipt of written response from the Commission excusing your appearance are you excused from your duty to appear at the hearing noticed hereby.

The above by action of the Commission in Administrative Session on May 21, 2024.

Sallie Tanner
Executive Secretary

9-6-24
Date

Jason Shaw
Chairman

9-6-24
Date

COMMISSIONERS:

JASON SHAW, Chairman
TIM G. ECHOLS, Vice-Chairman
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BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION

IN THE MATTER OF:	)	
	)	
Tommy Luke Construction, L.L.C.,	)	DOCKET NO. 43600
RESPONDENTS	)	(PSC Case No. 20-18939)
	)	

CERTIFICATE OF SERVICE

I hereby certify that this Notice of Hearing was filed with the Commission's Executive Secretary and a copy of same was served upon all parties and persons listed below via hand delivery as indicated by an asterisk, or by depositing same in the United States mail.

*Sallie Tanner, Executive Secretary
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, Georgia 30334

Tommy Luke Construction, L.L.C.
Attn: Tommy Luke
303 Betty Jo Drive
Valdosta, GA 31602

Respectfully Submitted this 10th day of September, 2024:

Maritza Rivera, Admin. Assistant
Facilities Protection Unit
Georgia Public Service Commission
244 Washington St. Ste. 112
Atlanta, GA 30334

COMMISSIONERS:
JASON SHAW, Chairman
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MICHELLE THEBERT
FACILITIES PROTECTION
UNIT DIRECTOR

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12/27/2023

Tommy Luke Construction, L.L.C.
Attn: Tommy Luke
303 Betty Jo Drive
Valdosta, GA 31602

Date of Incident:	3/12/2020
Docket #:	43600
Case #:	PSC 20-18939
Incident Location:	211 E Brookwood Place, Valdosta

To Whom It May Concern:

A Notice of Probable Violation(s) ("NOPV") of the Georgia Underground Facility Protection Act ("GUFPA" or the "Act") has been filed with the Georgia Public Service Commission Pipeline/Facilities Safety Office ("Staff") naming you as the probable violator ("Respondent"). A copy of the Act can be found at www.lexisnexis.com/hottopics/gacode (Title 25, Chapter 9). The probable violations alleged are as follows:

O.C.G.A. Violations

25-9-6(a) Failure to contact the UPC before commencing excavation or blasting with mechanized equipment.

25-9-8(e) Failure to notify both the UPC and the affected utility facility owner/operator after a damage occurs.

Violations of the Act are punishable by civil penalties of up to $10,000.00 (ten thousand dollars) *per violation*. **Staff recommends a civil penalty of $10,000.00. Respondent may choose from one of several options regarding the alleged probable violations. Staff recommends mitigation of $8,000.00 of the above-recommended civil penalty by attendance of five or more employees at a Commission approved damage prevention class. The respondent will be responsible for completing the training class and submitting the remaining $2,000.00 penalty in certified funds or cashier's check to the Georgia Public Service Commission.**

Specific information about the above probable violation(s) is provided in this packet so please read all documentation **completely** and **carefully**. In this packet, you will find the **Response Options**, **NOPV/Incident Report**, **Consent Agreement**, additional information on **Requests for GUFPAAC**, and a list of **Commission Approved Damage Prevention Trainers**.

YOUR AFFIRMATIVE WRITTEN RESPONSE IS REQUIRED WITHIN 30 DAYS OF THE DATE OF THIS NOPV (See "Response Options" page for more information). Failure to respond either by executing the consent agreement or requesting a hearing before the Advisory Committee will result in the issuance of a Rule NISI to be heard before the Georgia Public Service Commission.

If you have any questions, please call me at (404) 463-6526.

Sincerely,

Onterio Johnson
ojohnson@psc.ga.gov
GPSC GUFPA Investigator

RESPONSE OPTIONS

(Please check only one)

Respondent: Tommy Luke Construction, L.L.C.
Docket #: 43600
Case #: PSC 20-18939

Respondent may choose from **ONE** of the following **OPTIONS** to dispose of this case:

☐ **OPTION 1 – I Disagree and want to attend GUFPAAC**: If you *disagree* with the probable violation(s) alleged you may request to appear and have your case heard before the Georgia Underground Facility Act Advisory Committee ("GUFPAAC"), a committee of industry stakeholders and peers. Please dispute same by submitting a detailed written response and return it along with all supporting evidence (pictures, diagrams, maps, witness statements and any other documentation to be used in support of your position) and sign/return the below statement within **thirty (30) days** of this NOPV:

I hereby request the opportunity to present my case to the GUFPAAC and I certify under the penalty of perjury that the response(s) and information provided regarding the afore-mentioned probable violation(s) are true and correct to the best of my knowledge.

_____ _____

Authorized Representative of Respondent Date

*****Upon receipt of your signature above, your detailed written response and all supporting evidence, your case will be scheduled to be heard by the GUFPAAC and you will be notified by mail of the date of this GUFPAAC meeting.**

☐ **OPTION 2 – I Disagree and want a Hearing before the Hearing Officer:** If you disagree with the probable violation(s) alleged, please dispute by submitting a detailed, written response along with all supporting evidence (pictures, diagrams, maps, witness statements and any other documentation) to be used in support of your position **within 30 days of receipt of this letter.** If you need more time to gather your information, **you must contact the GUFPA staff to request additional time. Note: The information you provide will not close the case, it will assist the investigator in his/her investigation to arrive at a more informed conclusion. If at the point you still disagree with the findings of the investigator, your case will be heard by a Commission hearing officer.**

** **Sign below only if you are choosing Option 2** **

I certify under the penalty of perjury that the response(s) and information provided regarding the afore-mentioned probable violation(s) are true and correct to the best of my knowledge.

_____ _____

Authorized Representative of Respondent Date

☐ **OPTION 3 – I Agree and Wish to Pay the Mitigated Civil Penalty and attend Training:** If you agree with the alleged probable violation(s) please complete, sign and return the **Consent Agreement** provided for in this package. A **minimum of five (5) employees** of your company shall attend Commission approved damage prevention training. You must pay the recommended **mitigated** civil penalty of **$2,000.00**. Staff must receive the **signed Consent Agreement** and **this "Response" page** indicating your decision, and the mitigated penalty amount by certified check or money order within 30 days of receipt of this letter.

PLEASE NOTE: Georgia Law requires that ALL information requested in OPTION 1 and OPTION 2 be provided upon Staff's request. (O.C.G.A. §§ 24-10-26, 46-2-20 and 25-9-1 *et. seq.*). Failure to respond and/or comply with these requests for information in the 30 days provided for shall result in the loss of one or more of the **OPTIONS** presented.

☐ **OPTION 4 – I Agree and Wish to Pay the Full Civil Penalty**: If you agree with the alleged probable violation(s) please complete, sign and return the **Consent Agreement** provided for in this package and pay the full recommended civil penalty of **$10,000.00**. Staff must receive the **signed Consent Agreement** within **thirty (30) days** of this NOPV. THIS OPTION DOES NOT REQUIRE TRAINING.

COMMISSIONERS:
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TIM G. ECHOLS, Vice-Chairman
FITZ JOHNSON
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TRICIA PRIDEMORE

MICHELLE THEBERT
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FAX: (404) 463-6532
psc.ga.gov

DAMAGE REPORT (PROBABLE VIOLATION) – PSC 20-18939

INCIDENT INFORMATION

INCIDENT DATE:	3/12/2020	MATERIAL TYPE:	Plastic
FACILITY TYPE:	Gas	SIZE:	1/2 inch
INCIDENT ADDRESS:	211 E Brookwood Place, Valdosta		
UTILITY LINE FUNCTION:	Service		
MECHANZIED EQPT.:	Backhoe/Trackhoe		

LOCATE INFORMATION

LOCATE COMPANY NAME:	USIC Locating Services, Inc.
LOCATE NUMBER:	99999-999-999
WAS FACILITY LOCATED?	No
LOCATE MARKS WITHIN 18 INCHES?	No

REPORTING INFORMATION

REPORTING COMPANY:	Atlanta Gas Light
CONTACT NAME:	Christy Rainwater
CONTACT NUMBER:	404-584-3135
MAILING ADDRESS:	Ten Peachtree Place N.E.
CITY, STATE, ZIP:	Atlanta, GA 30309
CUSTOMERS AFFECTED:	0
REPAIR COST:	$1,196.00

PROBABLE VIOLATOR INFORMATION

VIOLATOR COMPANY NAME:	Tommy Luke Construction, L.L.C.
CONTACT NAME:	Douglas Hall
CONTACT NUMBER:	229-300-3586
MAILING ADDRESS:	Attn: Tommy Luke 303 Betty Jo Drive
CITY, STATE, ZIP:	Valdosta, GA 31602

FACILITY OWNER INFORMATION

FACILITY OWNER:	Atlanta Gas Light
CONTACT NUMBER:	404-584-3135

PROBABLE VIOLATION(s)

O.C.G.A Violations

25-9-6(a) Failure to contact the UPC before commencing excavation or blasting with mechanized equipment.

25-9-8(e) Failure to notify both the UPC and the affected utility facility owner/operator after a damage occurs.

DESCRIPTION OF DAMAGES:

Repaired 1/2-inch plastic service damaged by Tommy Luke Construction while digging with mechanical equipment. No Locate Ticket requested.

GEORGIA PUBLIC SERVICE COMMISSION
GEORGIA UNDERGROUND FACILITY PROTECTION ACT

NOPV / INCIDENT REPORT – PSC 20-18939

Mail, Fax or e-mail to:	Georgia Public Service Commission Facilities Protection Unit 244 Washington Street, SW Atlanta, Georgia 30334
Investigator:	Onterio Johnson
Work Number:	(404) 463-6526
Website:	www.psc.state.ga.us
Docket Number:	43600
Case Number:	PSC 20-18939
Report Date:	3/19/2020
Incident Date:	3/12/2020
Facility Owner:	Atlanta Gas Light
Facility Owner Phone:	404-584-3135
Locator:	USIC Locating Services, Inc.
Locator Phone:	(317) 810-8077
Excavator:	Tommy Luke Construction
Excavator Phone:	229-300-3586
Violator:	Tommy Luke Construction, L.L.C.
Contact:	Douglas Hall
Address:	Attn: Tommy Luke 303 Betty Jo Drive
City, State, Zip	Valdosta, GA 31602
Incident Location:	211 E Brookwood Place
Incident City:	Valdosta
Incident County:	Lowndes
Jurisdiction:	NOT REPORTED

UTILITY LINE IMPACT

Facility Type:	Gas
Material Type:	Plastic
Size (Diameter/Voltage/Pairs/etc.):	1/2 inch
Pressure (PSIG/Inches):	60 PSIG
Utility Line Function:	Service
Number of Customers Affected:	0
Repair Cost:	$1,196.00

INCIDENT IMPACT

Injury (# of outpatient care):	0
Injury (# of inpatient care):	0
Fatalities:	0
Fire Department Response:	Unknown
Police Department Response:	Unknown

EXCAVATION ACTIVITIES

Utility Ticket Number(s):	99999-999-999
Equipment Involved:	Backhoe/Trackhoe
Nature of Excavation:	Building Construction
Direction of Excavation Relative to Damaged Utility Line:	