

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BEN POORE )

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ALLEGED VIOLATION OF UNDERGROUND )  
FACILITY DAMAGE PREVENTION ACT )

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CASE NO.  
2019-00281

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 from an operator of a report of excavation damage to its underground gas pipeline, 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 Ben Poore 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 Ben Poore 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. Ben Poore shall submit to the Commission a written response to the allegations contained in the Staff Incident Report within 20 days of the date of this Order.
2. Ben Poore shall appear on September 27, 2019, at 9 a.m., Eastern Daylight 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 he 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 September 27, 2019 hearing shall be recorded by videotape only.

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

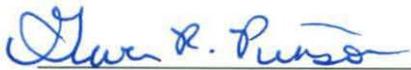
6. This Order shall be served via certified mail, return receipt accepted, to Ben Poore, 6525 Highway 218, Greensburg, KY 42743.

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By the Commission

ENTERED  
AUG 27 2019  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00281 DATED **AUG 27 2019**

[TWO PAGES TO FOLLOW]

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

<b>KY PSC Investigator(s)</b> Eric V. Tout	<b>Incident ID</b> 21205
<b>Incident Date</b> 11/11/2018 10:17:00 AM	<b>Report Submitted</b> 12/7/2018 11:22:58 AM

## OPERATOR INFORMATION

<b>Operator</b> Columbia Gas of Kentucky, Inc. <b>Phone</b> (859) 533-4022 <b>Incident Location</b> 148 Belt Line Ave Lexington, KY 40508  Fayette	<b>Reported By</b> Ryan Twait <b>Email</b> rmtwait@nisource.com <b>Locate Ticket Number</b>
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## EXCAVATOR INFORMATION

<b>Name of Excavator</b> Ben Poore, Gus Shalash, Mariam Shalash <b>Phone</b> Ben: 859-202-4887 <b>Excavator Address</b> Private Contractor Ben: 1203 E New Circle Rd. Gus: 1701 N Broadway Rd. Lexington, KY 40505	<b>Organization ID</b> <b>Email</b> Gus: 859-420-9151 <b>Locate Ticket Number</b>
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### Incident

The Operator reports that the Excavator, Ben Poore, was excavating an area without a locate ticket. While digging with an excavator, Mr. Poore struck a plastic one inch natural gas service line.

### Investigation

On 06/14/19 the Excavator, Ben Poore (859-202-4887), stated that he was operating a backhoe when damage occurred to the gas service. Mr. Poore stated that he was contracted by Gus Shalash to excavate at Mr. Shalash's sister's property. Mr. Poore stated that Mr. Shalash informed him of the area to excavate and he did so. Mr. Poore was advised that a call to the Protection Notification Center (811) before excavating was warranted. Mr. Poore advised he had nothing else to say and the telephone conversation was cut off. An attempt to reconnect with Mr. Poore resulted in a voice message with no return call as of today's date.

On 06/14/19 an attempt to contact Mr. Shalash (859-420-9151) resulted in, this number is not in service message. An attempt to contact Mr. Shalash (859-299-5500) resulted in a message being left.

On 06/17/19 and 06/18/19 an attempt to contact Mr. Shalash resulted in a voice mail/message with no return call as of today's date.

### Violation

**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.

