

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

B & C CONSTRUCTION, LLC )  
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\_\_\_\_\_)  
 )  
ALLEGED VIOLATION OF UNDERGROUND )  
FACILITY DAMAGE PREVENTION ACT )

CASE NO.  
2019-00332

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 B & C Construction, LLC (B & C), 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 B & C 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. B & C shall submit to the Commission a written response to the allegations contained in the Staff Incident Report on or before October 21, 2019.
2. B & C 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 videotape only.

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

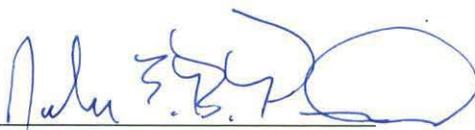
6. This Order shall be served upon B & C by the Barren County Sheriff through: Registered Agent, Ryan Brooking, at 5053 Old Lexington Road, Cave City, Kentucky 42127, and Member, Jason Christy, at 413 North 2<sup>nd</sup> Street, Cave City, Kentucky 42127, and 113 Dugantown Estate, Glasgow, Kentucky 42141.

By the Commission

Commissioner Talina Mathews did not participate in this case.

ENTERED  
SEP 17 2019  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

*Fol*  
  
Executive Director

Case No. 2019-00332

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00332 DATED **SEP 17 2019**

ONE PAGE TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

<b>KY PSC Investigator(s)</b> Eric V. Tout	<b>Incident ID</b> 21231
<b>Incident Date</b> 12/4/2018 6:50:00 PM	<b>Report Submitted</b> 12/17/2018 12:00:01 PM

## OPERATOR INFORMATION

<b>Operator</b> Columbia Gas of Kentucky, Inc. <b>Phone</b> (859) 533-4022 <b>Incident Location</b> 344 Desha Rd Lexington, KY 40502  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> Jason Christy  <b>Phone</b> <b>Excavator Address</b> B&C Construction 413 N. Second St. Cave City, KY 42127	<b>Organization ID</b> 1028326 <b>Active/Bad</b>  <b>Email</b> <b>Locate Ticket Number</b>
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### Incident

The Operator reports that the Excavator damaged a two inch gas main while driving utility pole anchors into the ground and failed to contact the Protection Notification Center (811).

### Investigation

This report originally indicated that MetroNet FiberNet LLC, 5053 Old Lexington Road Richmond, KY 40475 was the Excavator.

On 07/08/19 MetroNet's Director of Safety & Quality Control George Kemp ([George.Kemp@metronetinc.com](mailto:George.Kemp@metronetinc.com)) stated that Trinity Telecom, LLC, 3317 South Higley Road Suites 114-412, Gilbert, AZ 85297, Gerry Pierre (877-556-6669 or 480-301-5129), was the contract company conducting the work for MetroNet and no excavation was conducted by MetroNet.

On 07/09/19 Trinity Telecom's Gerry Pierre (877-556-6669 ext.1965) was contacted and advised, K&O Solutions, 210 Autumn Ridge Rd. Glasgow, KY 4313, owner Macy Grubbs (270-498-5310), was the contract company conducting the work for Trinity Telecom and no excavation was conducted by Trinity Telecom.

On 07/10/19 K&O Solutions' Macy Grubbs (270-498-5310) was contacted and stated that B&C Construction, Jason Christy (270-799-9937), was the contract company conducting the work for K&O Solution and no excavation was conducted by K&O Solution.

On 07/10/19 the Excavator, B&C Construction's Jason Christy, stated that no call to 811 was made by B&C Construction. Mr. Christy was receptive to attending the Damage Prevention course and paying the \$250.00 penalty.

### 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.

Jason Christy  
113 Dugantown Est.  
Glasgow, KENTUCKY 42141

Jason Christy  
413 N. 2nd. Street  
Cave City, KENTUCKY 42127

Ryan Brooking  
B & C Construction, LLC  
5053 Old Lexington Rd.  
Cave City, KENTUCKY 42127