

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BRUCE HUBBARD)	
)	
_____)	CASE NO.
)	2019-00159
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 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 Bruce Hubbard 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 Bruce Hubbard 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. Bruce Hubbard 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. Bruce Hubbard 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 it should not be subject to the penalties prescribed in KRS 367.4917(1) and (4) for this alleged violation.

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

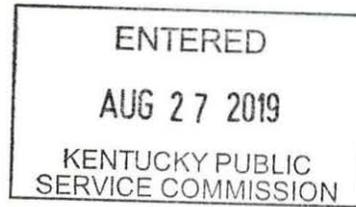
4. The September 27, 2019 hearing shall be recorded by videotape only.

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

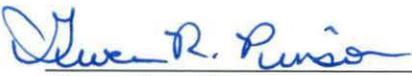
6. This Order shall be served via certified mail, return receipt accepted, to Bruce Hubbard, 1390 Little Perry Road, Morehead, Kentucky, 40351.

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By the Commission



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00159 DATED **AUG 27 2019**

TWO PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

INVESTIGATION INFORMATION

KY PSC Investigator(s): John Lyons	Damage Report Incident ID Number: 20786
Incident Date(s): August 4, 2018	Damage Report Submitted Date: August 8, 2018

OPERATOR INFORMATION

Name of Operator: Delta Natural Gas Company, Inc.	Reported by: Mary Rupard
Phone: 859-744-6171 Ext. 1160	Email: mvrupard@deltagas.com
Incident Location Address:	Locate Ticket Number: No Ticket
Location: Morehead, Kentucky Address: 65 West Lane City: Morehead State: Kentucky Zip Code: 40351	

EXCAVATOR INFORMATION

Name of Excavator: Tuffy Coyle	Organization ID:
Phone: Unknown	Email:
Excavator_Address:	Locate Ticket Number:
Name: Bruce Hubbard Address: 75 West Lane City: Morehead State: Kentucky Zip Code: 40351	There is no Secretary of State record of Poor Boys Custom Design.

Summary and Communications Log

- Operator reports that a ¾" service line was damaged while using a mini-excavator installing a drain tile.
- Placed a call on August 23, 2018, to the number reported by Delta. Number called was 606-225-8195, purportedly that of Mr. Tuffy Coyle. Answering machine identified the number as Poor Boys Custom Design. Investigator left message and asked for call back.
- Since I have gotten no call back from Mr. Coyle, I called Mary Rupard at Delta. She reported that there was a second 811 Ticket issued for the installation of this drain tile in June. The ticket number was 1806011356 and also called in by Jack Miller.
- Investigator Lyons left a message with Jack Miller's voice mail on August 29, 2018.
- Investigator Lyons again called the number for Mr. Coyle on August 31, 2018. It is now disconnected.
- Investigator Lyons called 606-316-2041, a number on the 811 tickets for Jack Miller. Mr. John Justice of Grayson answered, identifying that this was his cell phone number. I informed Mr. Justice that Mr. Jack Miller had given this number as his number. Mr. Justice advised me to call Mr. Miller, at Miller Insurance, in Grayson.
- Investigator Lyons called Mr. Miller at his office at 606-474-5128. I informed Mr. Miller of the reason I was calling and why I was investigating the reported incident. I explained the enforcement process and penalties. Mr. Miller said he would make a few calls and get back to me.
- Mr. Miller called me back minutes later and had Clint Orme, with Delta Gas, on the line. Mr. Orme had responded to the August 4 incident with John David Caudill. Mr. Orme relayed that the damage occurred on a property behind Fox Run Road and was not due to Mr. Miller's excavation project but was associated with building a remote control (RC) track on or near Mr. Hubbard's property. The Ticket information provided by Delta and called in by Mr. Miller was not for the excavation that caused the damage. Investigator Lyons informed Mr. Miller that he would not be held responsible for the damage.
- Investigator Lyons spoke to Mary Rupard on September 12, 2018, to clarify the report originally received from Delta. She confirmed that Mr. Hubbard's address 75 West Lane, Morehead, KY, 40351, and provided a telephone number of 606-784-3389, which was different than the number originally provided.
- Cabinet OGC provided three other numbers for Mr. Hubbard. 606-784-9162. 606-462-0358. 859-404-9779. They also had the same information as Delta, regarding Poor Boys Custom Design and the now disconnected phone number of 606-225-8195.
- 606-462-0358 is also disconnected. Investigator Lyons left a message at 859-404-9779 on September 13, 2018. Numbers 606-784-3389 and 606-784-9162 both have busy signals.
- Facebook <https://www.facebook.com/bruce.hubbard.7> . <https://www.facebook.com/poorboys2017/>
- PSC concludes that Mr. Hubbard is the responsible party and will issue demand letter to known address.

Violation(s)

- KRS 367.4911(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 notification centers shall satisfy this requirement.

Bruce Hubbard
1390 Little Perry Road
Morehead, KENTUCKY 40351