

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BURL RUSSELL – ALLEGED VIOLATION OF	)	CASE NO.
UNDERGROUND FACILITY DAMAGE	)	2019-00155
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 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 Burl Russell 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 Burl Russell violated the Underground Facility Damage Prevention Act. The Commission further finds that a formal investigation into the excavation damage incident should be conducted.

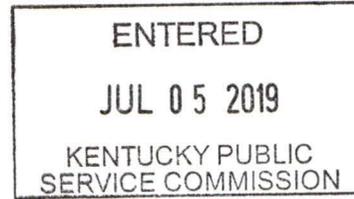
IT IS THEREFORE ORDERED that:

1. Burl Russell 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. Burl Russell shall appear on August 9, 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.
3. The August 9, 2019 hearing shall be recorded by videotape only.
4. A person shall not file a paper or appear at a hearing on behalf of, or otherwise represent, a partnership, corporation, business entity or other person unless the person is an attorney licensed to practice law in Kentucky.

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

By the Commission



ATTEST:

  
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00155 DATED **JUL 05 2019**

TWO PAGES TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

<b>KY PSC Investigator(s)</b> Jason Whisman	<b>Incident ID</b> 20789
<b>Incident Date</b> 7/26/2018 1:20:00 PM	<b>Report Submitted</b> 8/9/2018 7:32:08 AM

## OPERATOR INFORMATION

<b>Operator</b> Morehead Utilities <b>Phone</b> 6067768315 <b>Incident Location</b> 200 Wells Ln Morehead, KY 40351  Rowan	<b>Reported By</b> Jeremy Cooley <b>Email</b> jcooley@mupb.com <b>Locate Ticket Number</b>
--	--

## EXCAVATOR INFORMATION

<b>Name of Excavator</b> Burl, Russell <b>Phone</b> 606-356-6643 <b>Excavator Address</b> 1045 N Tolliver Rd Morehead, KY 40351	<b>Organization ID</b> <b>Email</b> <b>Locate Ticket Number</b>
---	---

Gas line Damage Report:

Excavation Damage: No notification made to the One Call Center

Description of Incident One call was made three months prior to incident. Marks and flags were no longer there. Contractor hit service line with excavator. Contractor then crimped the line and contacted proper officials.

Summary Information

8/9/2018

Full details such as the cause

Extent of the damage - Service line was cut into by excavator, which resulted in a full 3/4 open line

Cost of the damage - \$150.00

Steps taken to prevent re-occurrence - Discussed with contractor one call requirements. notified him that every 21 days the one call has to be made again.

Amount billed to excavator - \$0.00

Investigation Summary:

I talked with Burl Russell on 9/25/18 at 12:48pm. He stated that the landowner called in the 811 ticket and he did not have an updated ticket with the reasoning the lines were not going to be moved in the mean time. He stated that the gas line was only buried 3-4 inches deep in the soil and he should not be held responsible. PSC is going to reduce the fine from \$1250 to \$250 and offer remedial measures. Mr. Russell may not be inclined to pay the \$250 penalty or seek the remedial measure. He was reiterated the process that was available to contest the penalty.

Violation:

KRS 367.4911 (2) Locate requests are valid for twenty-one (21) calendar days from the day of the initial request.

Burl Russell  
1045 N Tolliver Rd  
Morehead, KENTUCKY 40351