

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ROBERT WELLS D/B/A WELL'S PLUMBING )  
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\_\_\_\_\_)  
 )  
ALLEGED VIOLATION OF UNDERGROUND )  
FACILITY DAMAGE PREVENTION ACT )

CASE NO.  
2019-00283

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 Robert Wells d/b/a Well's Plumbing (Robert Wells) 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 Robert Wells 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. Robert Wells shall submit to the Commission a written response to the allegations contained in the Staff Incident Report on or before October 21, 2019.
2. Robert Wells 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 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 November 22, 2019 hearing shall be recorded by video 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 Robert Wells by the Grayson County Sheriff.

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By the Commission

Commissioner Talina Mathews did not participate in this case.

ENTERED  
SEP 18 2019  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director  
Anne R. Pinson

Case No. 2019-00283

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00283 DATED **SEP 18 2019**

TWO PAGES TO FOLLOW

# PIPELINE DAMAGE INVESTIGATION REPORT

## Investigation Information

<b>KY PSC Investigator(s)</b> Eric V. Tout	<b>Incident ID</b> 21183
<b>Incident Date</b> 11/28/2018 8:45:00 AM	<b>Report Submitted</b> 12/3/2018 12:56:56 PM

## OPERATOR INFORMATION

<b>Operator</b> Leitchfield Gas Company <b>Phone</b> 270-589-1668 <b>Incident Location</b> 200 West Main Street, Clarkson Kentucky Clarkson, KY 42726  Grayson	<b>Reported By</b> Jimmy Wells <b>Email</b> jwwells@windstream.net <b>Locate Ticket Number</b> no call
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## EXCAVATOR INFORMATION

<b>Name of Excavator</b> Wells, Robert <b>Phone</b> 270-200-6960 <b>Excavator Address</b> Wells Plumbing 515 N Main St Caneyville, KY 42721	<b>Organization ID</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 and failed to contact the Protection Notification Center (811).

### Investigation

On 06/25/19 an attempt to contact the Excavator, Robert Wells, at 270-200-6960 resulted in a message "call rejected". The Operator, Leitchfield Gas Company's Jimmy Wells, was contacted and provided telephone number 270-200-0169. Mr. J. Wells stated he was not sure that the above address or the telephone number 270-200-0169 were current. Mr. J. Wells stated that he would attempt to obtain current information on Mr. R. Wells, but he was not sure if he could due to Mr. R. Well's residence changes frequently.

On 06/25/19 an attempt to contact Mr. R. Wells at 270-200-0169 resulted in a message being left.

On 06/26/19 Mr. J. Wells advise the Mr. R. Wells' telephone number is currently 270-200-0169 and Mr. R. Well's current address is 1726 Kefauver Rd. Leitchfield KY, 42754.

On 06/27/19 an attempt to contact Mr. R. Wells (270-200-0169) resulted in a voice mail being left.

On 06/28/19 the Excavator, Wells Plumbing's Robert Wells, stated that he did not cause the damage to the gas main. Mr. Wells stated that when he arrived on site that morning, he heard the gas spraying and call Leitchfield Gas Company to report what happened. Mr. R. Wells stated that someone, during the night, used the rental track hoe that was parked at the excavation site. Mr. Wells stated that whoever used the track hoe caused damage to the sewer facilities he was placing and to the gas main. Mr. R. Wells stated that he filed no police report. Mr. R. Wells stated that a Locate Ticket for the above noted Incident Location was obtained by C.J. (no last name or contact information provided) and Mr. R. Wells stated that he would obtain a copy by 07/01/19. Mr. R. Wells was informed of the Public Service Commission's remedial Damage Prevention course and the reduced penalty and he provided no preference. Therefore, this option of resolution will be offered and as of today's date Mr. R. Wells has

provided no Locate Ticket.

On 06/28/19 J. Wells was contacted regarding Mr. R. Wells' 06/28/19 statement. Mr. J. Wells stated that the damages did not occur during the night, a two inch main was severed in half, releasing copious amounts of gas, which would have caused calls of outages or the smell of gas. Mr. J. Wells stated that an outage was received the approximat time the damage occurred (8:45 am) from a local restaurant which opens at 5 a.m. indicating no outage from approximately 5 a.m. to 8:45 a.m. Mr. J. Wells stated that the damage site is in close proximity to a convenient store and several individuals witnessed excavation being conducted prior to the report of damage. Mr. J. Wells provided photographs of the damaged gas main indicting the line was severed in half.

On 06/28/19 811 provided Locate Ticket #1811280803 indicating said ticket was not obtained by the Excavator and it was obtained approximately three hours and forty five minutes post the damage for repairs. Carly Dunsmore of 811 was contacted and she advised no other Locate Tickets were obtained for the above noted Incident location within 21 days of the Incident Date, 11/28/2018.

#### 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.

