

# Act 50

## Damage Prevention Enforcement 2022 – A Year in Review STATISTICAL REPORT



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## **Executive Summary**

This Statistical Report tracks Alleged Violation Reports (AVRs) and the subsequent actions taken by the Damage Prevention Committee (DPC). Actions include the issuance of warning letters, administrative penalties and locator, excavator, designer or complex project education. The information in this report is based on data derived from statistical software used to determine the number of AVRs sent to the Pennsylvania Public Utility Commission (PUC) from each county and by each affected stakeholder. Additionally, this report summarizes the number of penalties and dollar amounts administered by the DPC during the period of January 2022 through December 2022, including the total dollar amount the PUC has currently collected. The report also provides data gathered from 2019 through 2022 as a historical comparison. This report was prepared by the Damage Prevention Section of the PUC's Bureau of Investigation & Enforcement.

## Damage Prevention Committee Members

|                                |                      |                                      |
|--------------------------------|----------------------|--------------------------------------|
| Terri Cooper-Smith<br>Chairman |                      | PUC                                  |
| William Kiger                  |                      | Pennsylvania One Call System         |
| Larry Ditty                    |                      | Pennsylvania Dept. of Transportation |
| Eric Swartley<br>Vice Chairman | Gas Industry         | UGI Utilities Inc.                   |
| Mark Santayana<br>Secretary    | Electric Industry    | PPL Electric Utilities Corp.         |
| James Dacey                    | Excavator            | Doli Construction Corp.              |
| Charles Dippo                  | Excavator            | Utility Line Services Inc.           |
| Armando Ferri                  | Excavator            | Sicavo Consulting LLC                |
| Kevin German                   | Municipal Authority  | Lehigh County Authority              |
| Thomas Clark                   | Municipal Government | Derry Township                       |
| David Henning                  | Cable                | Comcast Cablevision                  |
| Eric D. Finnemore              | Telecommunications   | Empire Access                        |
| Andrew Strassner               | Water/Wastewater     | Aqua Pennsylvania Inc.               |

## **Introduction**

In 2022, the PUC worked with all stakeholders to continue to pursue the goals outlined in the provisions of Act 287. Act 287, as amended by Act 50, is also referred to as the Underground Utility Line Protection Law (PA One Call Law), 73 P.S. §§ 176-86.

This Statistical Report uses data from January 1, 2019, which was the first full year the PUC was tasked with the enforcement of Act 50, through December 31, 2022, in order to examine the current violation trends in 2022. The information compiled in this report is utilized to help direct the education and enforcement efforts of the DPC.

## **Report Background and Organization**

### **Report Background**

On October 30, 2017, Governor Wolf signed Act 50 requiring the DPC to submit an annual report containing relevant damage prevention data to the Committee on Consumer Protection and Professional Licensure of the Senate, the Committee on Consumer Affairs of the House of Representatives, and the PUC.

### **Report Organization**

This report focuses on the enforcement activities of the DPC from January through December 2022. The DPC shifted from in-person meetings to Microsoft Teams during the Covid pandemic of 2020, and continued to hold online only meetings until June 2022. Beginning in June 2022, the DPC remained forward thinking by offering hybrid online/in-person meetings to help stakeholders attend in the manner which is the least disruptive to them, whether that be telephonically, via computer or cell phone, or in Hearing Room 1 of the Commonwealth Keystone Building.

## PUC Statistical Update

Since the inception of the PUC's enforcement responsibilities in April 2018, the DPC has issued 5,364 violations to stakeholders with a total amount of \$2,906,410 in penalties.

From April 28, 2018, to December 31, 2022, the PUC has received a total of 34,506 Alleged Violation Reports (AVRs) from the Pennsylvania One Call System (POCS) via a data exchange service created to facilitate the process. Figure A below presents a monthly breakdown of the total number of AVRs received by the PUC from January 2019 – December 2022. Figures B through D break down the AVRs by industry group and by county.

In 2022, the PUC's Damage Prevention Section (DPS) sent out 2,830 letters to homeowners and various stakeholders; opened 462 investigations; presented 415 cases for review at the monthly PC meetings; and administered 1,774 recommended penalties amounting to a total of \$1,020,750. Enforcement activities have resulted in the collection of penalties totaling \$771,575 for January 1 through December 31, 2022. Of the 401 stakeholders who were sent to education, a total of 175 of them were brought into compliance by completing their mandated education as recommended by the DPC.



Figure A

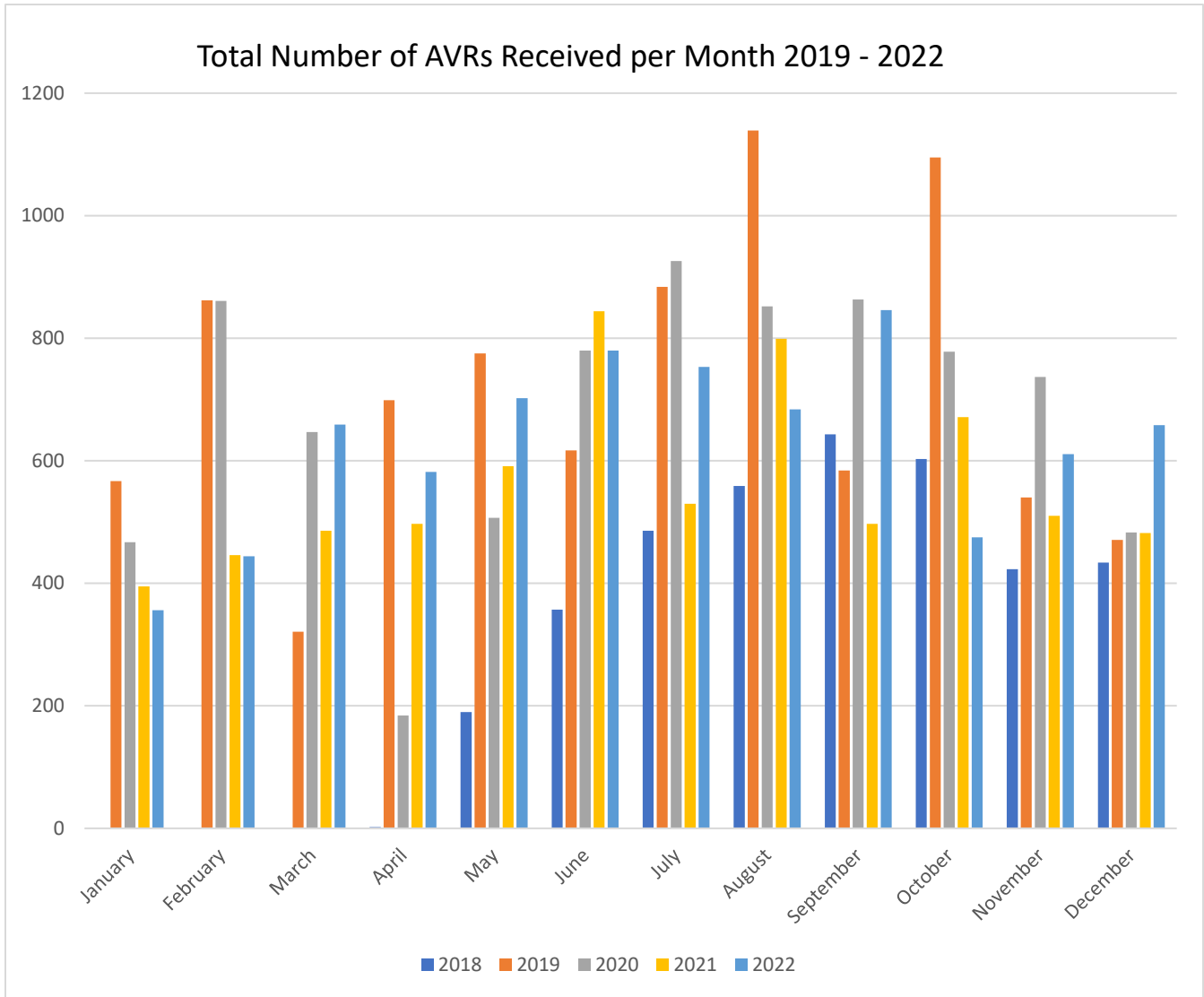


Figure B

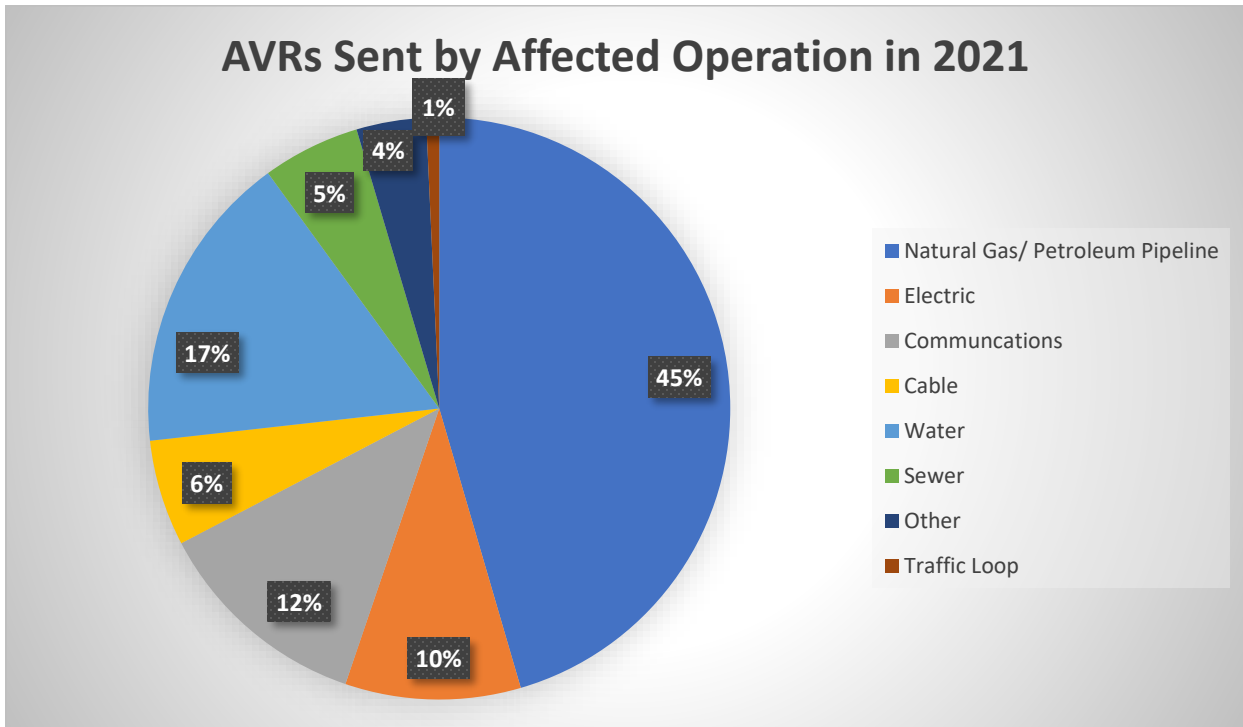


Figure C

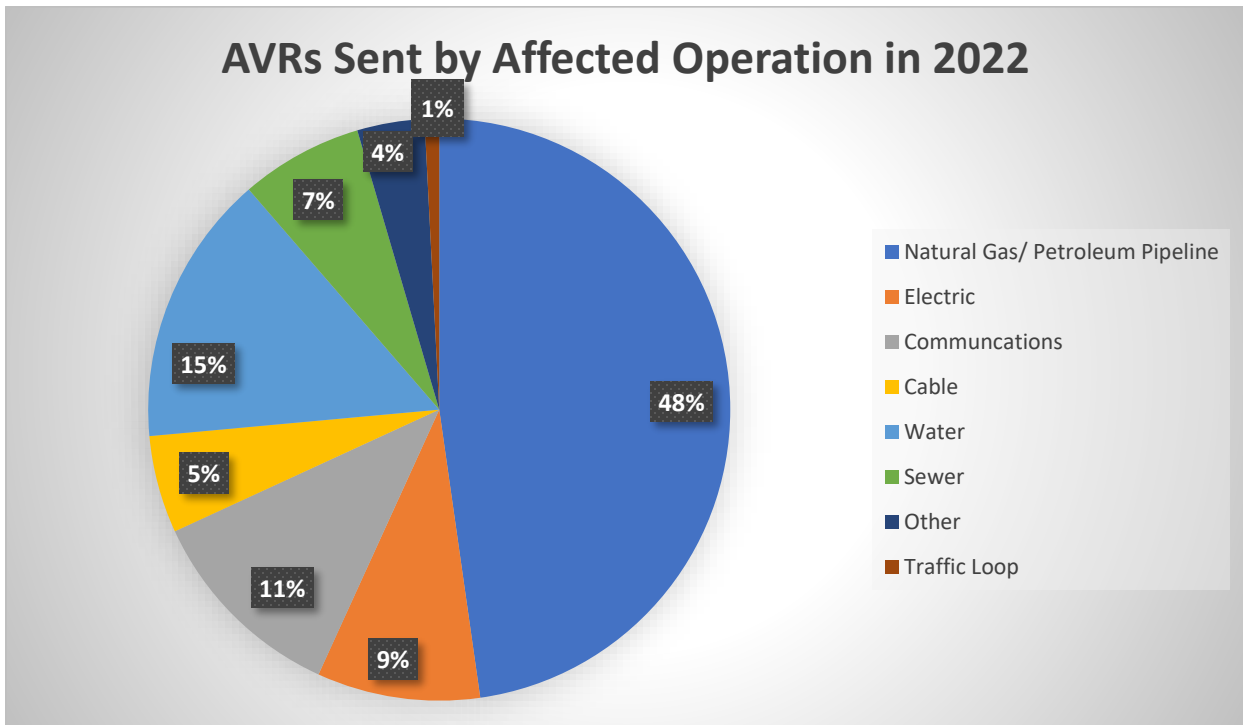


Figure D1

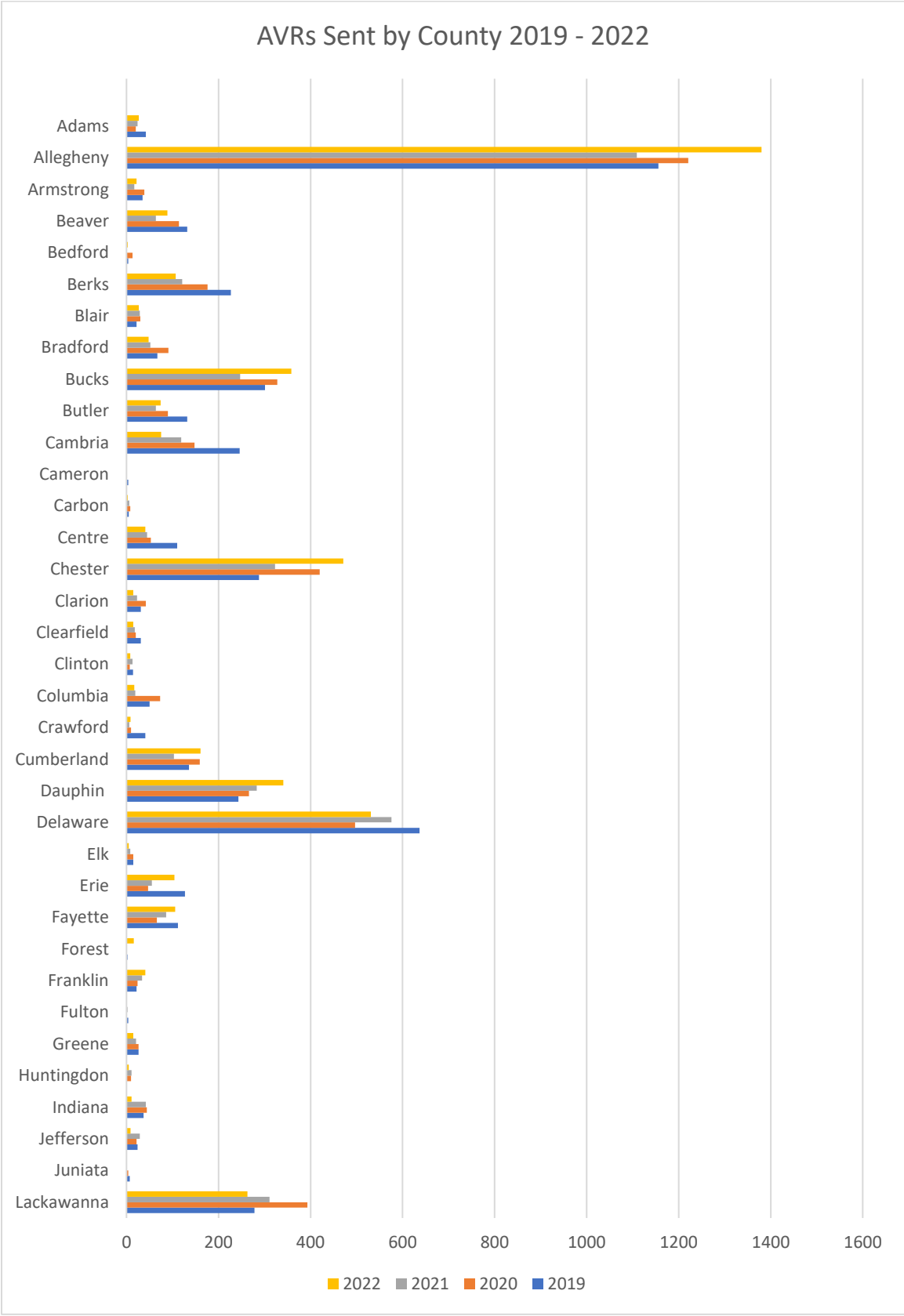
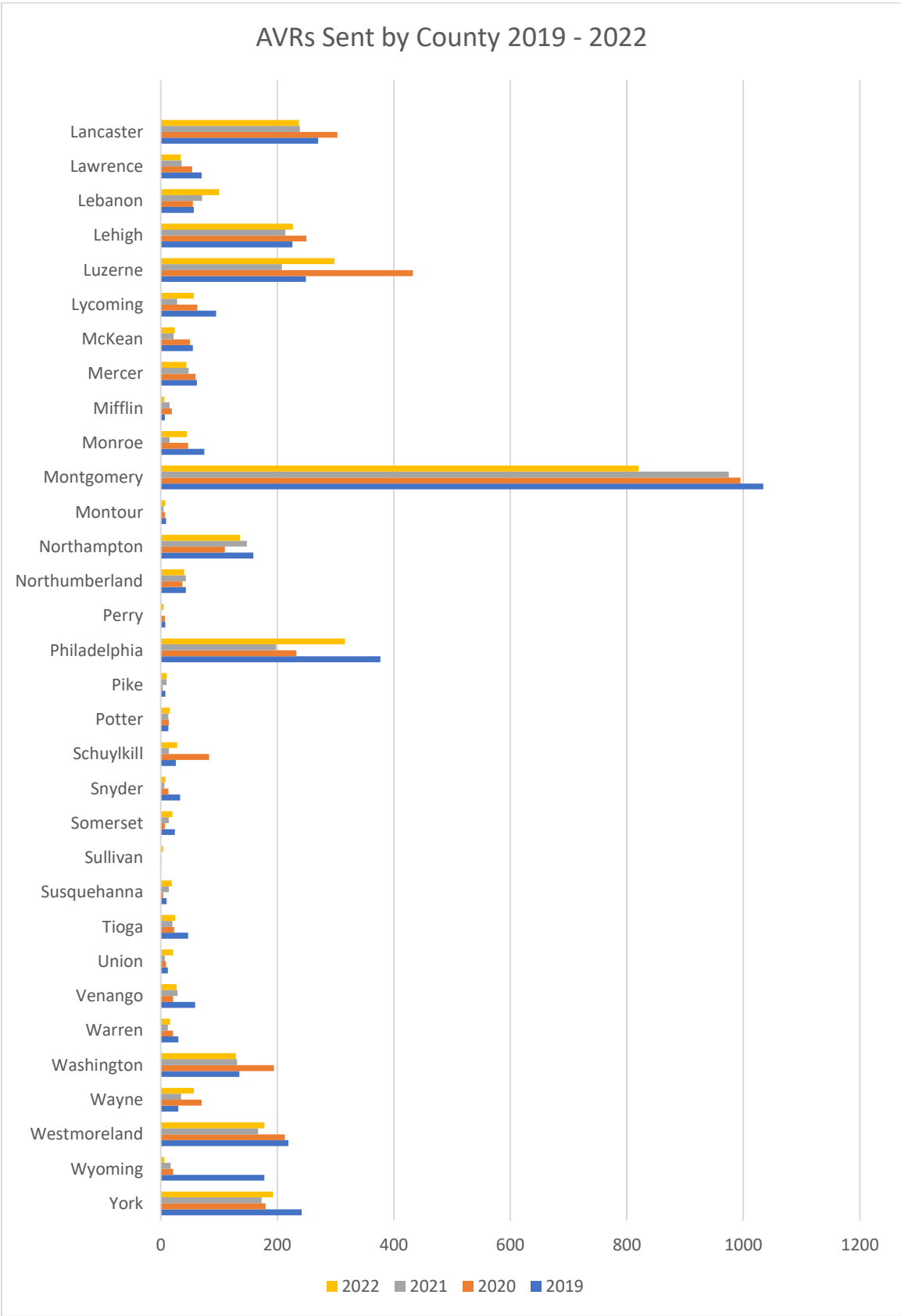


Figure D2



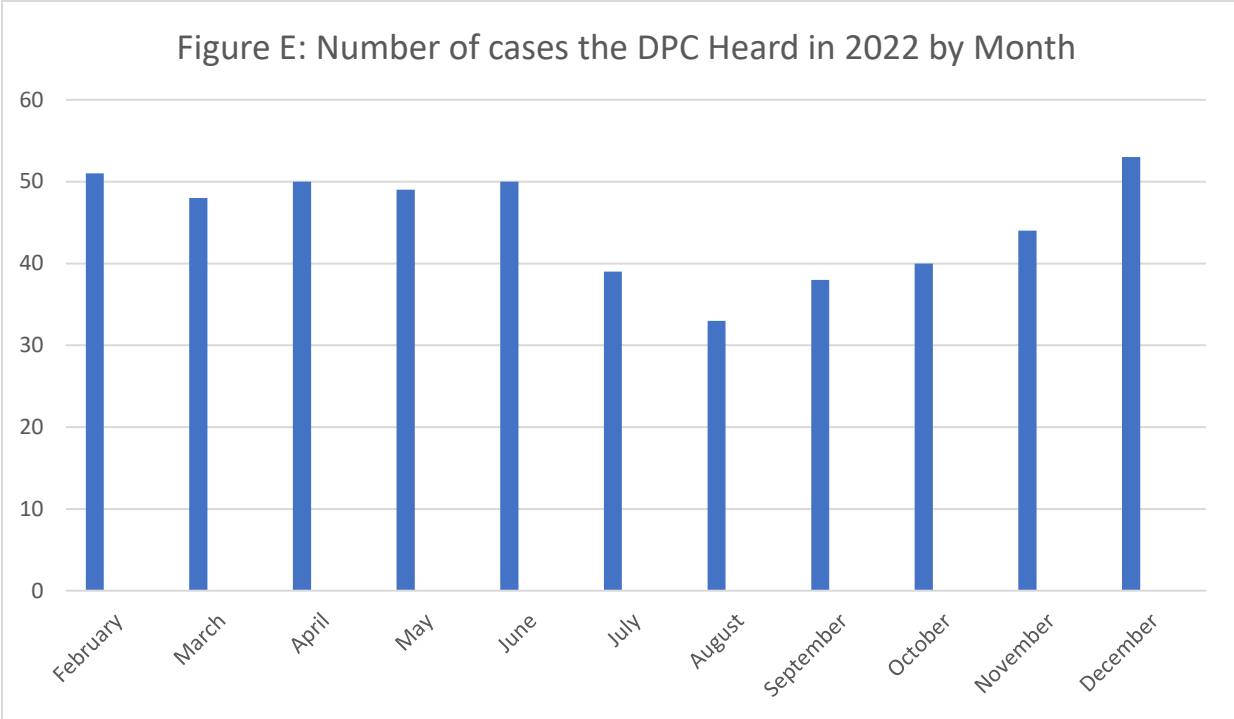
One of the PUC's Damage Prevention goals is to progressively reduce the number of underground utility line hits each year. The number of tickets<sup>1</sup> issued by the POCS was 1,037,463 in 2019, 991,975 in 2020, and 1,046,498 in 2021. In 2022, ticket numbers rose to 1,054,010. Additionally, the number of AVRs the PUC received in 2019 was 8,419 and 8,085 in 2020, 6,793 in 2021, and 7301 in 2022. Reporting of AVRs and damages is expected to increase in the first few years of these enforcement efforts due to enhanced knowledge and enforcement efforts. While the total number of AVRs has risen by 7.47%, reported line damages increased by 6.3% and non-damage violation reports increased by 26.5% indicating that compliance with reporting requirements has been increasing over the past five years.

Allegheny County had the most reported damages in 2022 followed closely by Montgomery County. Natural Gas/Petroleum Pipeline remains the most reported damaged facility type, which may be due to the stricter mandated Pipeline and Hazardous Materials Safety Administration (PHMSA) regulatory reporting requirements.

In 2022, the DPS continued to work virtually and hold monthly meetings via Microsoft Teams. In June, the DPS and DPC began the transition to a hybrid meeting format wherein the DPS and DPC attend in-person while disputing parties and other interested parties may choose to attend in-person or virtually.

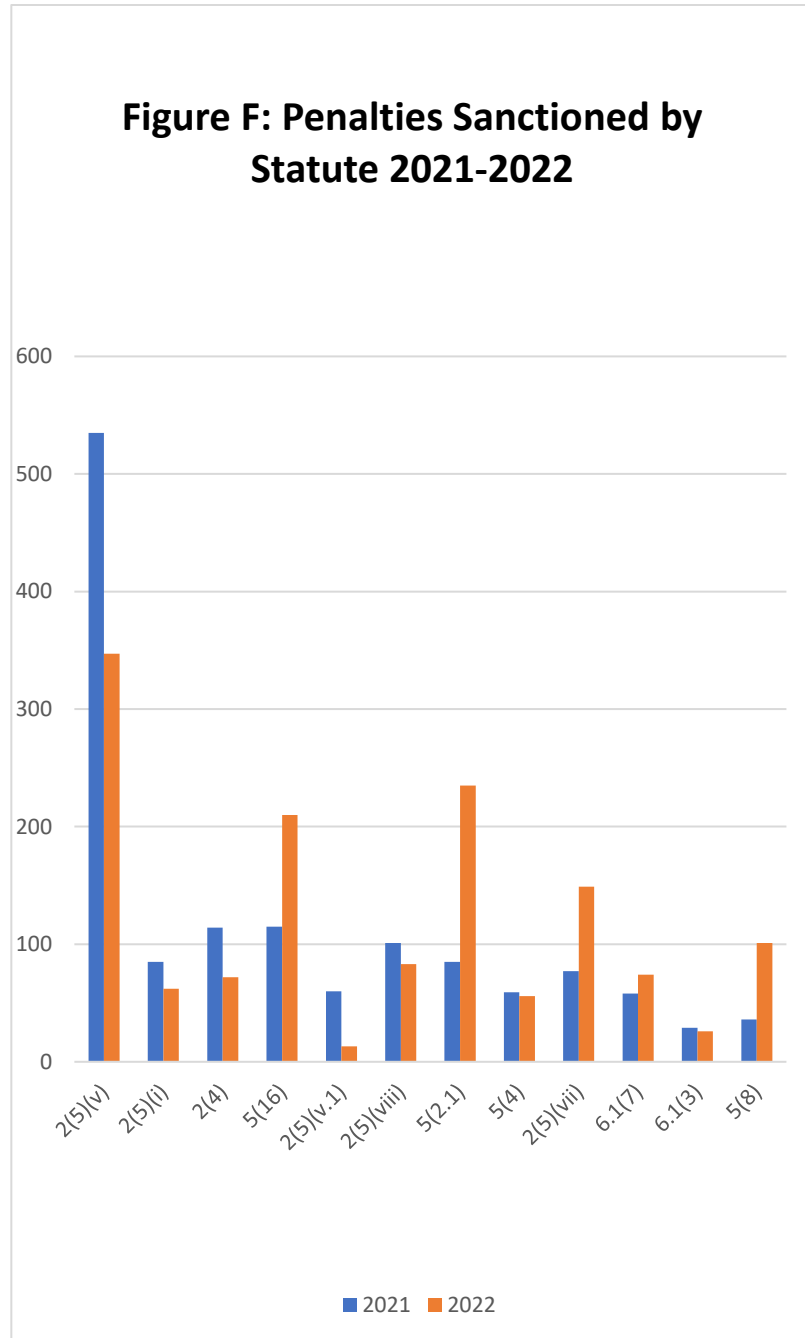
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<sup>1</sup> Information obtained from Pennsylvania One Call.



\* The PUC did not conduct a DPC Meeting during January 2022.

Figures F-H provide statistical data for cases, penalties and violations.



**Figure G1 Most Common Penalties 2021**

| Statute    | Description   | Count |
|------------|---|-------|
| 2(5)(v)    | Facility Owner failed to respond to a routine One Call Ticket   | 535   |
| 5(16)      | Excavator failed to submit an Alleged Violation Report within 10 business days of striking a line   | 115   |
| 2(4)       | Facility Owner failed to respond to Designer's request for information within 10 business days  | 111   |
| 2(5)(viii) | Facility Owner failed to participate in preconstruction meetings for a complex project or as described in section 5(3)  | 101   |
| 2(5)(i)    | Facility Owner failed to locate underground lines within 18 inches horizontally of the outside wall of the line   | 85    |
| 5(2.1)     | Excavator failed to submit a location request to One Call within the correct timeframe  | 85    |
| 2(5)(vii)  | Facility Owner failed to respond to an emergency notification as soon as practicable following notification   | 77    |
| 2(5)(v.1)  | Facility Owner failed to communicate directly with excavator within 2 hours of renotification   | 60    |
| 5(4)       | Excavator failed to exercise due care and employ prudent excavation techniques  | 59    |
| 6.1(7)     | Project Owner failed to submit an Alleged Violation Report within 10 business days of a line strike   | 58    |
| 5(8)       | Excavator failed to immediately notify 911 and the facility owner when damage resulted in the escape of gas or liquid which may endanger life, health or property | 36    |

**Figure G2 Most Common Penalties 2022**

| Statute    | Description   | Count |
|------------|---|-------|
| 2(5)(v)    | Facility Owner failed to respond to a routine One Call Ticket   | 347   |
| 5(2.1)     | Excavator failed to submit a location request to One Call within the correct timeframe  | 235   |
| 5(16)      | Excavator failed to submit an Alleged Violation Report within 10 business days of striking a line   | 210   |
| 2(5)(vii)  | Facility Owner failed to respond to an emergency notification as soon as practicable following notification   | 149   |
| 5(8)       | Excavator failed to immediately notify 911 and the facility owner when damage resulted in the escape of gas or liquid which may endanger life, health or property | 101   |
| 2(5)(viii) | Facility Owner failed to participate in preconstruction meetings for a complex project or as described in section 5(3)  | 83    |
| 6.1(7)     | Project Owner failed to submit an Alleged Violation Report within 10 business days of a line strike   | 74    |
| 2(4)       | Facility Owner failed to respond to Designer's request for information within 10 business days  | 72    |
| 2(5)(i)    | Facility Owner failed to locate underground lines within 18 inches horizontally of the outside wall of the line   | 62    |
| 5(4)       | Excavator failed to exercise due care and employ prudent excavation techniques  | 56    |
| 5(17)      | Excavator failed to inform facility owner of any damage to a line   | 54    |



## Figure H

### 2022 Penalties by Statute

| Statute     | Description   | Count | Penalty      | Factor <sup>(1)</sup> | Total Penalty |
|-------------|---|-------|--------------|-----------------------|---------------|
| 5 (2.1)     | Excavator failed to submit a location request to One Call within the correct timeframe  | 209   | \$165,000.00 | \$1,000.00            | \$166,000.00  |
| 5 (16)      | Excavator failed to submit an Alleged Violation Report within 10 business days of striking a line   | 190   | \$39,500.00  | \$0.00                | \$39,500.00   |
| 2 (5)(v)    | Facility Owner failed to respond to a routine One Call ticket   | 180   | \$166,375.00 | \$0.00                | \$166,375.00  |
| 2 (5)(v)    | Facility Owner failed to respond to a routine One Call ticket within the required amount of time  | 167   | \$84,375.00  | \$0.00                | \$84,375.00   |
| 2 (5)(vii)  | Facility Owner failed to respond to an emergency notification as soon as practicable following notification   | 149   | \$112,500.00 | \$0.00                | \$112,500.00  |
| 5 (8)       | Excavator failed to immediately notify 911 and the facility owner when damage resulted in the escape of gas or liquid which may endanger life, health or property   | 85    | \$83,250.00  | \$500.00              | \$83,750.00   |
| 2 (5)(viii) | Facility Owner failed to participate in preconstruction meetings for a complex project or as described in section 5(3)  | 83    | \$68,750.00  | \$0.00                | \$68,750.00   |
| 6.1 (7)     | Project owner failed to submit an Alleged Violation Report within 10 business days of a line strike   | 74    | \$18,250.00  | \$0.00                | \$18,250.00   |
| 2 (4)       | Facility Owner failed to respond to Designer's request for information within 10 Business Days  | 72    | \$25,125.00  | \$0.00                | \$25,125.00   |
| 2 (5)(i)    | Facility Owner failed to locate underground lines within 18 inches horizontally of the outside wall of line   | 62    | \$56,100.00  | \$1,000.00            | \$57,100.00   |
| 5 (4)       | Excavator failed to exercise due care and employ prudent excavation techniques  | 56    | \$31,250.00  | \$0.00                | \$31,250.00   |
| 5 (17)      | Excavator failed to comply with all requests for information from PUC staff within thirty days of the receipt of the request  | 52    | \$16,375.00  | \$0.00                | \$16,375.00   |
| 5 (7)       | Excavator failed to immediately report to the facility owner any break or leak in its lines, or any dent, gouge, groove or other damage to such lines or to their coating or cathodic protection made or discovered in the course of the excavation or demolition work  | 33    | \$31,000.00  | \$500.00              | \$31,500.00   |
| 6.1 (3)     | Project Owner released a project to bid or construction before final design was complete  | 26    | \$10,500.00  | \$0.00                | \$10,500.00   |
| 5 (2.1)     | Homeowner failed to submit a location request to One Call within the correct timeframe  | 26    | \$0.00       | \$0.00                | \$0.00        |
| 6.1 (1)     | Project Owner failed to utilize sufficient quality levels of subsurface utility engineering or other similar techniques to properly determine the existence and positions of underground facilities when designing known complex projects having an estimated cost of four hundred thousand dollars (\$400,000) or more | 25    | \$10,125.00  | \$0.00                | \$10,125.00   |
| 5 (16)      | Homeowner failed to submit an Alleged Violation Report within 10 business days of striking a line   | 20    | \$0.00       | \$0.00                | \$0.00        |
| 4 (2)       | Designer failed to request the line and facility information prescribed by section 2 (4) from the One Call System not less than ten nor more than ninety business days before final design is to be completed   | 19    | \$6,250.00   | \$0.00                | \$6,250.00    |
| 4 (8)       | Designer failed to submit an Alleged Violation Report through the One Call System within 30 business days of being made aware that a line strike occurred during excavation or demolition   | 16    | \$3,875.00   | \$0.00                | \$3,875.00    |
| 5 (9)       | Emergency notification does not meet the requirements of "emergency" as defined in Section 1 - Excavator Ticket   | 16    | \$13,500.00  | \$0.00                | \$13,500.00   |
| 2 (11)      | Facility owner failed to comply with all requests for information by the Commission relating to the Commission's enforcement authority under Act 50   | 13    | \$4,375.00   | \$0.00                | \$4,375.00    |
| 2 (5)(v.1)  | Facility Owner failed to communicate directly with excavator within 2 hours of renotification   | 13    | \$8,000.00   | \$0.00                | \$8,000.00    |
| 4 (3)       | Designer's drawing does not show the position and type of each facility owner's line, and the name of the facility owner(s)   | 12    | \$2,125.00   | \$0.00                | \$2,125.00    |
| 5 (11.2)    | Excavator using horizontal directional drilling (HDD), Excavator failed to utilize the best practices published by the HDD Consortium   | 12    | \$5,000.00   | \$350.00              | \$5,350.00    |

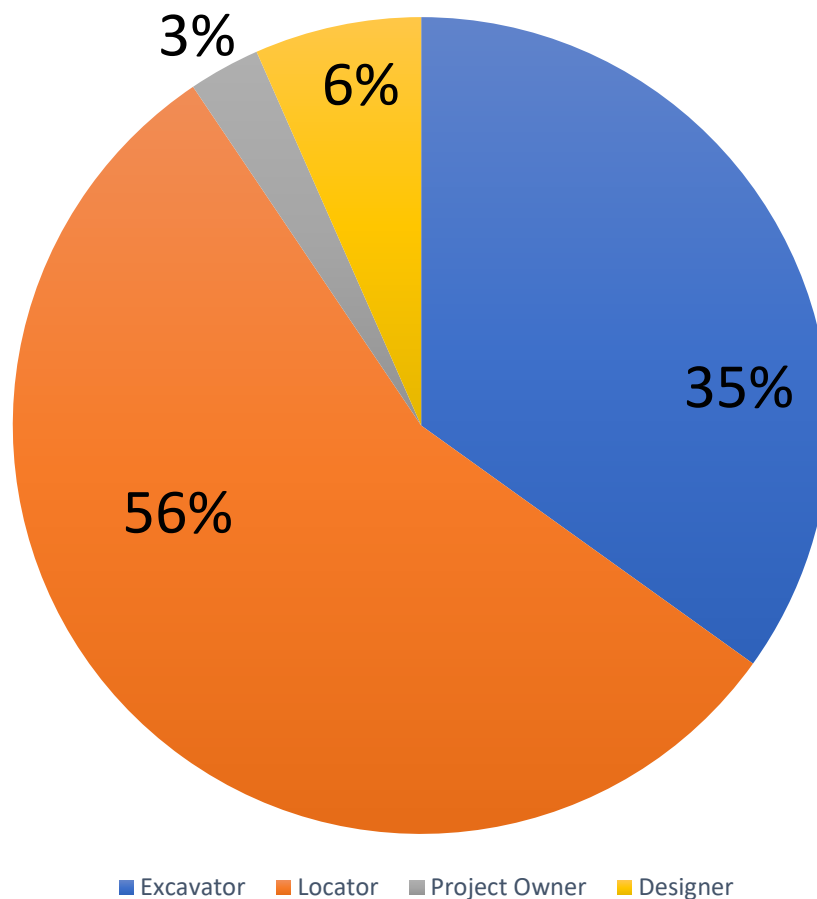
| Statute      | Description  | Count       | Penalty               | Factor <sup>(1)</sup> | Total Penalty         |
|--------------|--|-------------|-----------------------|-----------------------|-----------------------|
| 5 (8)        | Excavator vacated worksite after causing damage that resulted in the escape of gas or liquid which may endanger life, health or property   | 11          | \$10,500.00           | \$500.00              | \$11,000.00           |
| 5 (6)(i)     | Excavator failed to plan the excavation or demolition work to avoid damage to or minimize interference with a facility owner's facilities in the construction area   | 10          | \$2,500.00            | \$0.00                | \$2,500.00            |
| 4 (4)        | Designer failed to prepare construction drawings to avoid damage to and minimize interference with facilities in the construction area   | 10          | \$1,875.00            | \$175.00              | \$2,050.00            |
| 5 (21)       | Excavator failed to pay the annual fee for services provided by the One Call system  | 9           | \$2,000.00            | \$0.00                | \$2,000.00            |
| 5 (3)        | Excavator failed to hold a preconstruction meeting prior to beginning a complex project  | 9           | \$2,125.00            | \$0.00                | \$2,125.00            |
| 9            | Failed to make best efforts to comply with the Common Ground Alliance Best Practices (could be any party)  | 8           | \$875.00              | \$0.00                | \$875.00              |
| 4 (5)        | Designer's drawing does not include One Call's toll free number and the serial number of the ticket  | 8           | \$1,125.00            | \$0.00                | \$1,125.00            |
| 2 (5)(i.1)   | Facility Owner failed to locate an actually known facility's point of connection to its facilities   | 8           | \$2,000.00            | \$0.00                | \$2,000.00            |
| 2 (10)       | Facility owner failed to submit an Alleged Violation Report through the One Call System within 30 business days of receiving notice that one of its lines had been damaged                                     | 8           | \$4,500.00            | \$0.00                | \$4,500.00            |
| 5 (15)       | Project Owner or Designer prepared contract documents which attempt to waive an excavator's rights under section 5(15) of Act 50.  | 7           | \$2,250.00            | \$0.00                | \$2,250.00            |
| 5 (13)       | Excavator changed the location, scope or duration of a proposed excavation without notifying the One Call System.  | 6           | \$1,250.00            | \$0.00                | \$1,250.00            |
| 5 (2.2)      | Excavator failed to provide exact information to identify the worksite   | 6           | \$1,250.00            | \$0.00                | \$1,250.00            |
| 2 (1)        | Facility owner is not a member of One Call   | 6           | \$1,250.00            | \$125.00              | \$1,375.00            |
| 2 (5)(vi)    | Lines were not marked in compliance with the Common Ground Alliance Best Practices for Temporary Marking (ANSI standard Z535.1)  | 6           | \$2,000.00            | \$0.00                | \$2,000.00            |
| 5 (3)        | Excavator failed to preserve mark-outs or request a remark   | 6           | \$3,000.00            | \$0.00                | \$3,000.00            |
| 5 (3.1)      | Scope of project exceeds the maximum area of a routine ticket  | 6           | \$1,250.00            | \$0.00                | \$1,250.00            |
| 5 (6)(ii)    | Excavator failed to provide support and mechanical protection for known facility owner's lines at the construction work site during the excavation or demolition work, including during backfilling operations | 5           | \$1,750.00            | \$0.00                | \$1,750.00            |
| 5 (8)        | Homeowner failed to immediately notify 911 and the facility owner when damage resulted in the escape of gas or liquid which may endanger life, health or property  | 5           | \$2,000.00            | \$0.00                | \$2,000.00            |
| 2 (5)(13)    | Facility Owner failed to maintain existing records of main lines abandoned on or after the date and to mark, locate or identify the main lines   | 5           | \$2,000.00            | \$0.00                | \$2,000.00            |
| 5 (20)       | Excavator failed to renotify One Call of an unmarked or incorrectly marked facility upon arrival at a work site and wait at least 3 hours for the facility owner to provide additional information             | 4           | \$750.00              | \$0.00                | \$750.00              |
| 5 (11)       | Excavator failed to use the color white to mark a proposed excavation work site when exact work site information could not be provided   | 3           | \$750.00              | \$0.00                | \$750.00              |
| 5 (19)       | Excavator failed to provide accurate information to the One Call System  | 3           | \$750.00              | \$0.00                | \$750.00              |
| 5 (5)        | Excavator failed to exercise due care when facility owner is unable to mark within a mutually agreeable time frame.  | 3           | \$1,500.00            | \$0.00                | \$1,500.00            |
| 5 (3)        | Excavator failed to schedule work as agreed upon during a preconstruction meeting  | 3           | \$1,500.00            | \$0.00                | \$1,500.00            |
| 5 (17)       | Homeowner failed to comply with all requests for information from PUC staff within thirty days of the receipt of the request   | 2           | \$0.00                | \$0.00                | \$0.00                |
| 2(5)(iii.1)  | Facility Owner failed to propose a mutually agreeable scheduling by which the excavator, facility owner or designer may locate underground facilities  | 2           | \$1,750.00            | \$0.00                | \$1,750.00            |
| <b>Total</b> |  | <b>1774</b> | <b>\$1,016,000.00</b> | <b>\$4150.00</b>      | <b>\$1,020,750.00</b> |

## Education

In some cases, in lieu of imposing administrative penalties, the DPC designates education as an alternative method of enforcement. In 2022, the DPC and damage prevention investigators continued placing emphasis on education and will continue to prioritize education as a corrective measure.

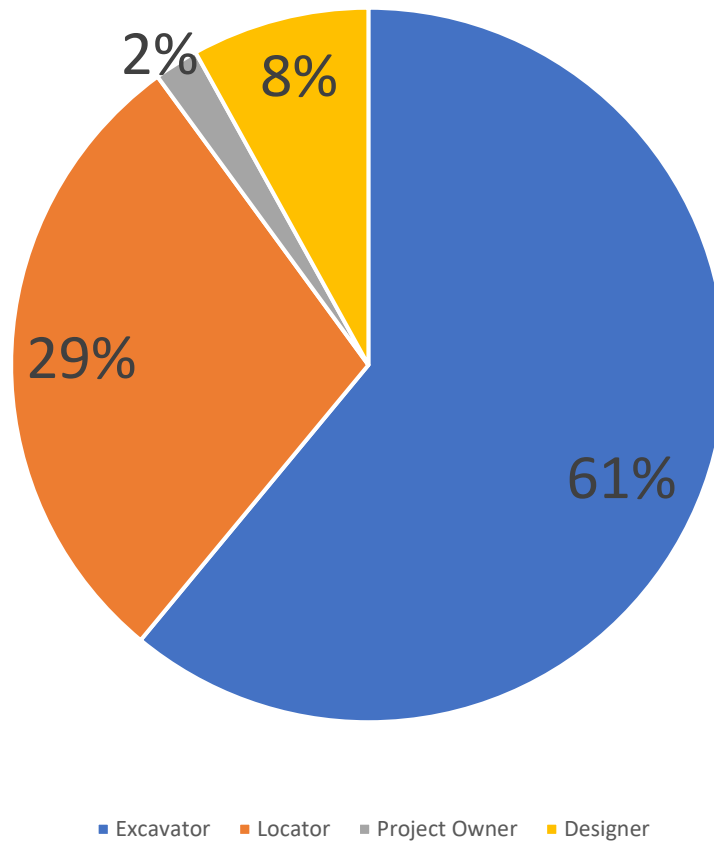
In 2021, the DPC heard 214 discussion cases, commented on 28 pre-discussion cases, and voted on 169 omnibus cases. Of the 383 cases voted on by the DPC, 106 of them included an educational component as part of the recommendation from the DPC. Pre-discussion cases, which allow the DPC to pull cases specifically to discuss talking points, and not specific penalties, are a new feature in 2021, having been added in the updated bylaws. The DPC began hearing pre-discussion cases in August 2021.<sup>(1)</sup>

**Figure J1: Recommended Education by DPC in 2021**



In 2022, the DPC heard 125 discussion cases, commented on 55 pre-discussion cases, and voted on 290 omnibus cases. A total of 412 individual parties were sent to education as part of the recommendation from the DPC.

**Figure J2: Recommended Education by DPC in 2022**



In 2023, the DPS intends to begin linking the assessment of penalties to whether a party has previously attended training.

The POCS modified its education program in 2020 adapting to the needs of the DPC becoming a virtual environment. At the end of 2021, the POCS began offering both virtual and in-person training, and it continues to offer training both in-person and online. With education modules and compliance tests tailored to both in-person and online formats, POCS is an efficient and varied resource for continuing education compliance recommendations. Additionally, the excavating community has two other approved training options through the National Utility Contractors Association and Sicavo Consulting, LLC.

The PUC is optimistic that given the enhanced resources and a commitment to recommending training to all new stakeholders, we will see more parties obtaining education in 2023. We encourage the excavating community, designers and facility owners to utilize these formats to improve their internal procedures for a safer Pennsylvania.

## Summary

This report presents statistics for the enforcement of Act 50. The data gathered is utilized to track trends over time and identify accomplishments and opportunities in damage prevention enforcement.

The year 2022 saw the return of in-person meetings in a hybrid format that allows stakeholders to attend either in-person or online. The DPC and DPS continued to emphasize education as a remedy, in particular for first-time offenders.

Overall, our findings for 2022 indicate that there has been a significant reduction in damages as compared to the 2019 – 2020 timeframe. While total numbers of AVRs in 2022 have increased over the 2021 level, we believe that this is reflective of an increase in reporting, as damage reports increased by 6.3% versus an increase of 26.5% for non-damage reports.

Attendance at pre-construction meetings has increased substantially, and more parties have made use of Coordinate PA, which is an application developed by POCS. These pre-excavation initiatives give all parties an opportunity to communicate and work together on large-scale projects. Studies from other states show that these pre-excavation efforts result in far fewer line damages.

The DPS, DPC and Pennsylvania One Call remain committed to upholding the standards of Act 50 with the goal of reducing underground damaged facilities and continuing to make Pennsylvania safer.

## References

Bureau of Investigation and Enforcement. (Jan. 2, 2023). *Damage Prevention Reports 2021*. Retrieved from PUC's statistical software; Damage Prevention Dashboard. (Figures A, B, C, D1, D2, E, F, G1, G2, H, I, J.1, J.2)

Pennsylvania One Call System

## End Notes

### (1) Case Types:

Discussion – when a stakeholder disputes any or all violations and/or penalties, the cases is sent to Discussion so that the stakeholder(s) may present their evidence before the Committee.

Omnibus – undisputed cases that are approved as a block of cases.

Pre-Discussion – cases that are pulled by the DPC for the purpose of discussing the event itself, or any point in the case. These cases are not voted on. They are presented for the benefit of the public, usually about subjects that have been confusing.

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