



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

September 6, 2022

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement v.
Terrance McGuirk
Docket No. C-2022-
Formal Complaint

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Complaint in the above-referenced case on behalf of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission. Copies have been served on the parties of record in accordance with the Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads 'Emily A. Farren'.

Emily A. Farren
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 322910
(717) 783-6150
efarren@pa.gov

EAF/jfm
Enclosures

cc: Per Certificate of Service

NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint.

The date of service is the date as indicated at the top of the Secretarial Letter. *See* 52 Pa. Code §1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

Or, you may eFile your Answer using the Commission's website at www.puc.pa.gov. The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, please serve a copy on:

Emily A. Farren, Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
400 North Street
Harrisburg, PA 17210
efarren@pa.gov

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the requested relief.

C. You may elect not to contest this Complaint by paying the administrative penalty within 20 days. Send only a certified check or money order made payable to the "Commonwealth of Pennsylvania," with the docket number indicated, and mail to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the requested relief set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

G. Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2022-
	:	
Terrance McGuirk	:	

FORMAL COMPLAINT

NOW COMES the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by its prosecuting attorneys, and files this Formal Complaint (“Complaint”) against Terrance McGuirk (“Respondent”), pursuant to Sections 182.8(d) and 182.10 of the Underground Utility Line Protection Law, Act of October 30, 2017, P.L.806, No. 50 (hereinafter referred to as the “PA One Call Law”), 73 P.S. §§ 182.8(d) and 182.10.¹ In support of its Complaint, I&E respectfully represents the following:

I. COMMISSION JURISDICTION AND AUTHORITY

1. The Pennsylvania Public Utility Commission, with a mailing address of 400 North Street, Harrisburg, PA 17120, is a duly constituted agency of the Commonwealth of Pennsylvania empowered to, *inter alia*, enforce compliance by excavators, facility owners and other stakeholders pursuant to Section 182.10 of the PA

¹ The purpose of the PA One Call Law is to protect the public health and safety by preventing excavation or demolition work from damaging underground lines used in providing electricity, communication, gas, propane, oil delivery, oil product delivery, sewage, water or other service; imposing duties upon the providers of such service and persons and other entities preparing drawings or performing excavation or demolition work; and prescribing penalties.

One Call Law, 73 P.S. § 182.10.

2. Complainant is the Commission's Bureau of Investigation and Enforcement, which is the bureau established to take enforcement actions against public utilities and other entities subject to the Commission's jurisdiction pursuant to 66 Pa.C.S. § 308.2(a)(11); *See also Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011) (delegating authority to initiate proceedings that are prosecutory in nature to I&E), including actions to enforce compliance of the PA One Call Law.

3. Complainant is represented by:

Emily A. Farren
Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
400 North Street
Harrisburg, PA 17120
(717) 783-6150
efarren@pa.gov

Michael L. Swindler
Deputy Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
400 North Street
Harrisburg, PA 17120

4. Respondent is Terrance McGuirk with a main mailing address of 182 Terwilliger Road, Parker, Pennsylvania 16049.

5. Respondent is an “excavator” as that term is defined at 73 P.S. § 176 as he “performs excavation or demolition work for [himself] or for another person.”

6. “Excavation work” is defined as “the use of powered equipment or explosives in the movement of earth, rock or other material, and includes, but is not limited to, anchoring, augering, backfilling, blasting, boring, digging, ditching, drilling, driving-in, grading, plowing-in, pulling-in, ripping, scraping, trenching and tunneling.” 73 P.S. § 176.

7. “Powered equipment” is defined as “any equipment energized by an engine or motor and used in excavation or demolition work.” 73 P.S. § 176.

8. Respondent, as an excavator, is subject to the power and authority of this Commission pursuant to Section 182.10 of the PA One Call Law, 73 P.S. § 182.10, which requires excavators to comply with the PA One Call Law.

9. Sections 182.8(d) and 182.10 of the PA One Call Law, 73 P.S. §§ 182.8(d) and 182.10, authorize the Commission to, *inter alia*, hear and determine complaints against excavators for violations of the PA One Call Law and enforce the provisions of the PA One Call Law.

10. Section 182.10(a) of the PA One Call Law, 73 P.S. § 182.10(a), authorizes the Commission to impose administrative penalties on excavators who violate the PA One Call Law. Section 182.10(b)(1)(i)-(ii) allows for the imposition of an administrative penalty not to exceed \$2,500 for each violation or if the violation results in injury, death, or property damage of \$25,000 or more, an administrative penalty not to exceed \$50,000.

11. Pursuant to the provisions of the applicable Commonwealth statutes, the Commission has jurisdiction over the subject matter of this complaint and the actions of Respondent related thereto.

II. FACTUAL BACKGROUND

12. On August 15, 2020, at approximately 12:00 PM, while performing excavation work, Terrance McGuirk (at times referred to as “Respondent”) damaged an unmarked gas line at or near his residence at 182 Terwilliger Road, Clarion County, Pennsylvania (hereinafter referred to as “excavation site”).

13. The unmarked gas line is owned and operated by UGI Utilities, Inc. (“UGI”).

14. Mr. McGuirk did not submit a routine ticket (or locate request) with the Pennsylvania One Call System (“POCS”) prior to commencing excavation work.

15. In response to the line strike, UGI submitted an Alleged Violation Report (“AVR”) with the POCS, pursuant to 73 P.S. § 177(10). UGI’s AVR is attached as I&E Exhibit 1.

16. The purpose of an AVR is to report to the Commission, through the POCS, an alleged violation of the PA One Call Law that occurred in association with excavation or demolition work. *See* 73 P.S. §§ 176 and 177(10).

17. In its AVR, UGI alleged that Respondent failed to submit a Routine Ticket through the POCS prior to commencing excavation work. *See* I&E Exhibit 1.

18. The line strike caused a 24—48-hour utility service disruption to Respondent and resulted in an estimated total cost of damage to the line between \$1,001 and \$5,000. *See* I&E Exhibit 1.
19. The AVR identified the excavation activity as “driveway work”. *See* I&E Exhibit 1.
20. The AVR identified the method of excavation as “digging” with “loader” as equipment used. *See* I&E Exhibit 1.
21. In addition to its AVR, UGI submitted with the POCS photographs of the excavation site, damaged gas line, and excavation equipment. UGI’s photographs are attached as I&E Exhibits 2A-B.
22. The photograph at I&E Exhibit 2A depicts a zoomed in view of the severed UGI gas line.
23. The photograph at I&E Exhibit 2B depicts a broader view of the excavation site at 182 Terwilliger Road, Clarion County, Pennsylvania, showing both the severed UGI gas line and excavation equipment in proximity.
24. The photographs fairly and accurately show the damaged, severed UGI gas line as it appeared on August 15, 2020, at the excavation site.
25. Respondent, as an excavator who damaged a gas line during excavation, had the duty “[t]o immediately notify 911 and the facility owner if the damage results in the escape of any flammable, toxic or corrosive gas or liquid which endangers life, health or property.” 73 P.S. § 180(8).

26. Respondent failed to immediately notify 911 of the gas line strike. *See* I&E Exhibit 1.

27. Respondent, as an excavator, had the duty “[t]o request the location and type of facility lines at each work site by notifying the facility owner through the [Pennsylvania] One Call System (POCS). Notification shall be not less than three or more than ten business days in advance of beginning excavation or demolition work” 73 P.S. § 180(2.1).

28. Respondent did not submit a Routine Ticket through the POCS prior to the commencement of excavation.

29. Respondent, as an excavator who damaged a line, had the duty “[t]o submit a report of an alleged violation to the commission through the One Call System not more than ten business days after striking or damaging a facility owner’s line during excavation or demolition The report of an alleged violation shall be in the form and manner as required by the commission.” 73 P.S. § 180(16).

30. Respondent did not submit an AVR within ten business days after damaging UGI’s line.

III. VIOLATION

31. Paragraphs 1-30 above are incorporated herein as if stated in their entirety.

32. Respondent failed to immediately notify 911 of the escape of gas, in that Respondent never called 911 after striking the gas line.

If proven, this is a violation of Section 180(8) of the PA One Call law, 73 P.S. § 180(8), requiring an excavator to immediately notify 911 and the facility owner if the damage results in the escape of gas.

The Bureau of Investigation and Enforcement's proposed administrative penalty for this violation is One Thousand Dollars (\$1,000).

33. Respondent failed to submit a Routine Ticket through the POCS at least three (3) business days prior to commencing excavation, in that Respondent never submitted a Routine Ticket for the above-referenced excavation site.

If proven, this is a violation of Section 180(2.1) of the PA One Call Law, 73 P.S. § 180(2.1), requiring an excavator to notify facility owners through the POCS at least three (3) business days prior to commencing excavation.

The Bureau of Investigation and Enforcement's proposed administrative penalty for this violation is Five Hundred Dollars (\$500).

34. Respondent failed to submit an AVR within ten business days of damaging UGI's gas line, in that Respondent never submitted an AVR.

If proven, this is a violation of Section 180(16) of the PA One Call Law, 73 P.S. § 180(16), requiring an excavator to file an AVR within ten business days of striking or damaging a facility owner's line during excavation on a form and manner as required by the commission.

The Bureau of Investigation and Enforcement's proposed administrative penalty for this violation is Two Hundred Fifty Dollars (\$250).

WHEREFORE, the Bureau of Investigation and Enforcement of the

Pennsylvania Public Utility Commission respectfully requests that the Commission:

- (a) Find Respondent to be in violation of the PA One Call Law at Section 180(2.1), 73 P.S. § 180(2.1); and
- (b) Find Respondent to be in violation of the PA One Call Law at Section 180(8), 73 P.S. § 180(8); and
- (c) Find Respondent to be in violation of the PA One Call Law at Section 180(2.1); and
- (d) Impose a total administrative penalty upon Respondent in the amount of One Thousand Seven Hundred Fifty Dollars (\$1,750); and
- (e) Order such other remedies as the Commission may deem appropriate.

Respectfully submitted,



Emily A. Farren
Prosecutor
PA Attorney ID No. 322910

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 783-6150
efarren@pa.gov

Date: September 6, 2022

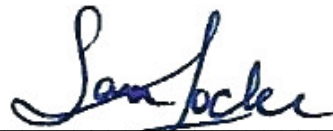
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2022-
	:	
Terrance McGuirk	:	

VERIFICATION

I, Sara Andrade-Locke, Damage Prevention Supervisor, Damage Prevention Section, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information, and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: September 6, 2022



Sara Andrade-Locke
Damage Prevention Supervisor
Damage Prevention Section
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

I&E
Exhibit 1

Alleged Violation Report

PA Act 287, as amended 73 P. S. § 176 et. seq.
Powered by Pennsylvania One Call System, Inc.

AVR Number AVR2020SEP100027

AVR Version 1

First Name RYAN **Last Name** GEISINGER

Company Name UGI Utilities

Address 1301 Aip Dr Attn UGI Pipeline Safety

City Middletown

State PA

Zip Code 17057

Email rgeisinger2@ugi.com **Phone** 8002762722

Ext

Role

Submitter Role(s) (?)

<input checked="" type="checkbox"/> Facility Owner	<input type="checkbox"/> Designer
<input type="checkbox"/> Excavator	<input type="checkbox"/> Project Owner
<input type="checkbox"/> Locator	<input type="checkbox"/> Enforcement Agency
<input type="checkbox"/> Other	

Are you representing a company other than your own? Yes No

What company or individual are you representing?

Alleged Violation Information

PUC Case Number (if known)

Related AVR Number (?)

Type of Alleged Violation (?) Excavator Issue

Reason Failed to request the location and type of facility owner through the One Call System in advance of beginning excavation or demolition work §5(2.1)

Type of Alleged Violation (?) Excavator Issue

Reason Failed to immediately notify 911 and the facility owner if damage results in the escape of any hazardous material which endangers life, health or property §5(8)

Type of Alleged Violation (?) Excavator Issue

Reason Failed to immediately report any break, leak, dent, gouge, groove, or other damage to lines, made or discovered during the work §5(7)

When did the alleged violation occur? (?) 08/15/2020

12:00:00 PM

Was the One Call System notified? Yes No

Original Serial Number Please enter the 11 digit One Call Serial Number under which work was taking place, which will populate the work site information of this alleged violation.

Related Damage Serial Number, if applicable

Other Related Serial Numbers (?)

Was the excavation exempt from One Call notification? Yes No Unknown

Reason for Exemption

Event Information

County CLARION

Municipality PERRY TWP

Ward

Work Site 923 Perryville Rd

Nearest Intersection

Second Intersection

Geolocation (?)

Affected Facility Information

Primary Right of Way Type Private

Public Right of Way Type

Private Right of Way Type Land Owner

Affected Operation Gas

Facility Subtype Affected Distribution

Facility Owner Company Name	UGI Utilities		
Contact First Name	Ryan	Last Name	Geisinger
Address			
City			
State			
Zip			
Email	Phone		
Joint Trench?	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> Unknown		
Involve Cross Bore?	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> Unknown		
Measured Depth from Grade	<18" / 46 cm		
Exact Measured Depth from Grade	Enter the inches or centimeters with number and measurement used		

Work Information



Start Date of Excavation (?)			
Excavation Activity	DRIVEWAY WORK		
Excavator Company Name			
Contact First Name	Terrance	Last Name	McQuirk
Address	182 Terwilliger Rd		
City	Parker		
State	PA		
Zip	16049		
Email	Phone 724-399-2292		
Marked in White	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> Unknown		
Method of Excavation	DIGGING		
Equipment Used	What Equipment was used for excavation or demolition when the event occurred? LOADER		
Type of Excavator	What is the type of excavator for whom the work was being done when the event occurred? Other		
Did Excavator incur down time?	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> Unknown		
How much down time?			
Estimated cost of down time			
Was a response posted to the One Call System?	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> Unknown		

Was the design serial number on the plans/bid documents? Yes No Unknown

Were the lines shown on the plans/bid documents? Yes No Unknown

What level of subsurface utility engineering was utilized?

Estimated cost of the entire project

What was the length of the entire project?

Project Owner Company Name

Contact First Name

Last Name

Address

City

State

Zip

Email

Phone

Event Impact



Did Violation result in underground damage or near miss event? Damage

OSHA Report Filed? Yes No

OSHA Report Number

Was 911 called? Yes No

Name of 911 Caller

Fire Response Yes No

Police Response Yes No

Did the incident cause any injuries? Yes

Number of Injuries (?)

Did the incident cause any deaths? Yes

Number of Deaths

Was there an evacuation? Yes No

Number of people evacuated?

Traffic Stopped? Yes No

Service Interrupted? Yes No

Duration of Service Interruption? 24 - < 48 hrs

Exact Value of Service Interruption

Approximately how many customers were affected? 1

Exact Number of Customers Affected

Cost of Damaged Line Repair? \$1,001-\$5,000

Exact Cost of Damaged Line Repair

Was other property damaged? Yes No

What other property was damaged?

Cost of Other Property Repair

Locator/Locate Information



Who was the facility line locator?

Locator Company

Contact First Name

Last Name

Address

City

State

Zip

Email

Phone

Was the line marked? Accurately Inaccurately/Incompletely Not Marked
 Unknown

Were facilities marked according to APWA/CGA temporary marking color code (ANSI standard Z535.1)? Yes No Unknown

What types of marks were present?
 Paint
 Flags
 Stakes
 Other

Were offset markings used? Yes No Unknown

Condition of Marks

Was the line marked by the response due date or within the agreed upon locate schedule? (?) Yes No Unknown

Reason for Late Locate No One Call

Was the excavation within the tolerance zone? (?) Yes No Unknown

Was there an indication of underground facilities (clear evidence) in the excavation area? Yes No Unknown

What was the evidence? (meter/pedestal, pipeline marker, valve box, hydrant, manhole, etc.)

What method(s) were used to locate the facility? Electronic Visual Records Exposed

Did the excavator request payment under PennDOT Form 408 specifications for extra work performed on a force account basis? Yes No

Additional Locate Comments

If this incident involved any locating/marketing errors, please include all records related to the locator's training and qualification (including training to meet UULPL standards as well as Operator Qualification).

Summary and Attachments

Provide a summary of the event

Terrance McQuirk was digging with a skid steer to install a driveway when he hit our gas line feeding 923 Perryville Rd. This damage was not immediately reported and 911 was not called. Terrance also made a temporary repair to our facility to stop the flow of gas.

If more space is needed, attach additional pages or documents.

Attachments

Damage Photos.pdf 809.37KB

Attach pictures and additional documents

Submit Date

09/10/2020

Compliance Update

Research Result

- Listed tickets found
- Additional tickets found
- No tickets found

Additional Tickets Found

Additional Serial Numbers

Ticket Attachment

Comments

I&E
Exhibit 2A



I&E
Exhibit 2B



**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

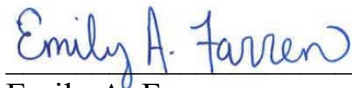
Pennsylvania Public Utility Commission :
Bureau of Investigation and Enforcement :
v. : Docket No. C-2022-
Terrance McGuirk :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Formal Complaint** in the manner and upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Served via Electronic Mail

Terrance McGuirk
182 Terwilliger Road
Parker, PA 16049
97pontiac@comcast.net



Emily A. Farren
Prosecutor
PA Attorney ID No. 322910

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
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