



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

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

November 28, 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.  
Cityline Construction  
Docket No. C-2022-  
**I&E Formal Complaint (Damage Prevention)**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the **Formal 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](mailto:efarren@pa.gov)

EAF/ac  
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](http://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](mailto: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-
	:	
Cityline Construction	:	

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**FORMAL COMPLAINT**

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NOW COMES the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by its prosecuting attorneys, and files this **Damage Prevention-Related Complaint** (“Complaint”) against Cityline Construction (“Respondent”), pursuant to Sections 182.8(c)-(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(c)-(d) and 182.10.<sup>1</sup>

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

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<sup>1</sup> 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.

excavators, facility owners and other stakeholders pursuant to Section 182.10 of the PA 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](mailto: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 Cityline Construction, with a main mailing address of 822 West Hamilton Street, Suite 301, Allentown, Pennsylvania 18101.

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. “Demolition work” is defined as “the partial or complete destruction of a structure, by any means, served by or adjacent to a line or lines.” 73 P.S. § 176.

7. “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.

8. “Line” or “facility” is defined as “an underground conductor or underground pipe . . . used in carrying, gathering, transporting or providing natural or artificial gas . . . to one or more consumers . . . and the appurtenances thereto . . .” 73 P.S. § 176.

9. “Tolerance zone” is defined as the horizontal space within eighteen inches of the outside wall or edge of a line or facility. 73 P.S. § 176.

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

11. “Work site” means the specific place denoted on the locate request where excavation or demolition work is being or is planned to be performed. A work site should be denoted as a clearly defined, bounded area, including relevant identifiable points of reference such as the specific address with a specific description as to the portion of the property, including descriptions such as front, back, left side, right side and direction such as N, S, E, W or variants. Where possible, the points should also reference, without limitation, the size and radius or circumference of the excavation, utility pad or

pedestal numbers, utility pole numbers, landmarks, including trees, fountains, fences, railroads, highway and pipeline markers, and latitude and longitude.” 73 P.S. § 176.

12. 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.

13. Sections 182.8(c)-(d) and 182.10 of the PA One Call Law, 73 P.S. §§ 182.8(c)-(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.

14. 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.

15. 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**

16. On December 8, 2020, at approximately 10:50 AM, while performing demolition or excavation work, Cityline Construction damaged an underground gas line

at or near 2851 S. Pike Avenue, Allentown City, Lehigh County, Pennsylvania (hereinafter referred to as “excavation site”).

17. At all material times hereto, Respondent was an “excavator” as defined in Section 73 P.S. § 176.

18. UGI Utilities, Inc. (“UGI”) is the facility owner, as defined in 73 P.S. § 176, of the underground gas line.

19. An underground gas line is a “line” or “facility” as defined in 73 P.S. § 176.

20. Cityline Construction did not submit a routine ticket (or locate request) with the Pennsylvania One Call System (“POCS”) prior to commencing demolition or excavation work.

21. 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.

22. 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).

23. 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.

24. UGI also alleged in its AVR that “. . . when digging [Cityline Construction] struck a [sic] unmarked gas line.” *See* I&E Exhibit 1.

25. The line strike caused a 1 to 6-hour utility service disruption to the Homeowner and resulted in an estimated total cost of damage to the line between \$1,001 and \$5,000. *See* I&E Exhibit 1.

26. The AVR identified the excavation activity as “digging.” *See* I&E Exhibit 1.

27. In addition to its AVR, UGI submitted with the POCS photographs of the excavation site and damaged gas line. UGI’s photograph is attached as I&E Exhibit 1A.

28. The photograph at I&E Exhibit 1A depicts a closeup of the severed UGI gas line donning black electrical tape at or near 2851 S. Pike Avenue, Allentown City, Lehigh County, Pennsylvania.

29. The photograph at I&E Exhibit 1B depicts the tolerance zone<sup>2</sup> and the damaged UGI gas line, with the absence of line or facility markouts.

30. The photographs fairly and accurately show the excavation site and damaged UGI gas line as they appeared on or about December 8, 2020.

31. Respondent did not submit a Routine Ticket through the POCS prior to the commencement of excavation or demolition work.

32. Respondent did not call the One Call System nor provide the work site or other required information nor received a POCS serial number.

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<sup>2</sup> Section 180(4) of the PA One Call Law states, “[w]ithin the tolerance zone the excavator shall employ prudent techniques, which may include hand-dug test holes, vacuum excavation or similar devices to ascertain the precise position of the facilities.” 73 P.S. § 180(4).

### **III. VIOLATIONS**

33. Paragraphs 1-32 above are incorporated herein as if stated in their entirety.

34. 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.

Pursuant to the factors set forth in Section 182.10(b)(2)(i)-(vi) of the PA One Call Law, 73 P.S. § 182.10(b)(2)(i)-(vi), the Bureau of Investigation and Enforcement's proposed administrative penalty for this violation is Two Thousand Five Hundred Dollars (\$2,500).

35. Respondent failed to provide exact information to identify the work site so that facility owners might provide indications of their lines, in that Respondent never called the One Call System to provide the work site and other required information nor received a serial number.

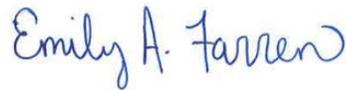
If proven, this is a violation of Section 180(2.2) of the PA One Call Law, 73 P.S. § 180(2.2), requiring excavators to provide the One Call System with exact information to identify the work site.

Pursuant to the factors set forth in Section 182.10(b)(2)(i)-(vi) of the PA One Call Law, 73 P.S. § 182.10(b)(2)(i)-(vi), the Bureau of Investigation and Enforcement's proposed administrative penalty for this violation is One Thousand Dollars (\$1,000).

**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 Sections 180(2.1), (2.2), 73 P.S. §§ 180(2.1); (2.2), and
- (b) Impose a total administrative penalty upon Respondent in the amount of Three Thousand Five Hundred Dollars (\$3,500); and
- (c) 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](mailto:efarren@pa.gov)

Date: November 28, 2022

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**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: November 28, 2022



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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** AVR2020DEC090007

**AVR Version** 1

**First Name** JAMIE **Last Name** EBERT

**Company Name** UGI UTL LANCASTER

**Address** 1301 AIP DR.

**City** MIDDLETOWN

**State** PA

**Zip Code** 17057

**Email** jebert@ugi.com **Phone** 6105873215

**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 provide One Call System with exact information to identify the work site §5(2.2)

**When did the alleged violation occur? (?)** 12/08/2020  
10:50:00 AM

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 LEHIGH  
Municipality ALLENTOWN CITY  
Ward  
Work Site 2851 S. PIKE AVE.  
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 Service/Drop/Lateral  
Facility Owner Company Name UGI UTILITIES INC.  
Contact First Name Last Name  
Address  
City  
State  
Zip

Email

Phone

Joint Trench?  Yes  No  Unknown

Involve Cross Bore?  Yes  No  Unknown

Measured Depth from Grade 18" - 36" / 46 - 91 cm

Exact Measured Depth from Grade Enter the inches or centimeters with number and measurement used

## Work Information



Start Date of Excavation (?)

Excavation Activity UNKNOWN/OTHER

Excavator Company Name CITY LINE

Contact First Name LUIS Last Name HENRIQUEZ

Address 822 HAMILTON ST. APT. 301

City ALLENTOWN

State PA

Zip 18102

Email Phone 610-820-5555

Marked in White  Yes  No  Unknown

Method of Excavation DIGGING

Equipment Used What Equipment was used for excavation or demolition when the event occurred?  
UNKNOWN/OTHER

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?  Yes  No  Unknown

How much down time?

Estimated cost of down time

Was a response posted to the One Call System?  Yes  No  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? 1 - < 6 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 PA ONE CALL FOR THIS WORK SITE.

**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  Records  
 Visual  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

NO PA ONE CALL FOR THIS WORK SITE.

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

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Provide a summary of the event

CITY LINE DID NOT PERFORM A PA ONE CALL FOR THIS WORK SITE AND WHEN DIGGING STRUCK A UNMARKED GAS SERVICE FACILITY.

VIOLATION OF SECTION 5(2.2).

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

Attachments

2851 S. Pike Ave. FR M. Pavkovic Pic. 6.92MB  
2.jpeg

Attach pictures and additional documents

Submit Date

12/09/2020

## Compliance Update

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Research Result

- Listed tickets found  
 Additional tickets found  
 No tickets found

## Additional Tickets Found

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Additional Serial Numbers

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Ticket Attachment

Comments

City Line Construction has placed notifications in the past. The most recent caller is Kathy Mcnair with the mailing address and phone number listed on the AVR.

**I&E**

**Exhibit 1A**



**I&E**  
**Exhibit 1B**



**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

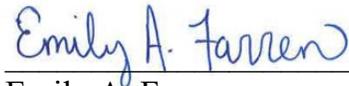
Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2022-
	:	
Cityline Construction	:	

**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**

Cityline Construction  
822 W. Hamilton Street  
Suite 301  
Allentown, PA 18101  
[kathy@citylineconstruction.com](mailto:kathy@citylineconstruction.com)



\_\_\_\_\_  
Emily A. Farren  
Prosecutor  
PA Attorney ID No. 322910

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Pennsylvania Public Utility Commission  
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