



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

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

January 25, 2023

**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.  
Martin Enterprises LLC  
Docket No. C-2023-  
**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-2023-
	:	
Martin Enterprises	:	

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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 Complaint** (“Complaint”) against Martin Enterprises (“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 excavators, facility owners and other stakeholders pursuant to Section 182.10 of the PA One Call Law, 73 P.S. § 182.10.

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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.

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 Martin Enterprises, with a main mailing address of 291 Briner Road, Elliptsburg, PA 17024.

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. “Line” or “facility” is defined as “an underground conductor . . . used in providing electric or communication service . . . to one or more consumers . . . and the appurtenances thereto . . .” 73 P.S. § 176.

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

9. 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.

10. 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, arising from the rejection of an informal determination made by the Damage Prevention Committee, against excavators for violations of the PA One Call Law and enforce the provisions of the PA One Call Law.

11. 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.

12. 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

13. On July 8, 2020, at approximately 4:45 PM, while performing excavation work with powered equipment, Martin Enterprises damaged an underground electric service line at or near 355 Briner Road, Spring Township, Perry County, Pennsylvania (hereinafter referred to as “excavation site”).

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

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

16. PPL Electric Utilities (“PPL”) is the facility owner, as defined in 73 P.S. § 176, of the underground electric service line.

17. An underground electric service line is a “line” or “facility” as defined in 73 P.S. § 176.

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

19. 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).

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

21. In its AVR, PPL alleged that “a non-PPL excavator for Martin Enterprises contacted an underground primary cable while digging with a mini excavator for installation

of an electrical service conduit at 355 Briner Road, Elliottsburg, Spring Township, Perry County.” *See* I&E Exhibit 1.

22. In its AVR, PPL alleged that the line strike caused a 1 to 6-hour utility service disruption to one customer and resulted in an estimated total cost of damage to the line between \$1,001 and \$5,000. *See* I&E Exhibit 1.

23. The AVR identified the excavation activity as “digging” and the equipment used as “backhoe/trackhoe.” *See* I&E Exhibit 1.

24. A backhoe and trackhoe are powered equipment as defined in 73 P.S. § 176.

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

26. Respondent did not call the POCS nor provide the work site or other required information nor received a POCS serial number prior to the commencement of excavation.

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

### **III. VIOLATIONS**

28. Paragraphs 1-27 above are incorporated herein as if stated in their entirety.

29. 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 One Thousand Dollars (\$1,000).

30. 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).

31. Respondent failed to submit an AVR within ten business days of damaging PPL's electric service 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.

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 Five Hundred Dollars (\$500).

**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), and (16), 73 P.S. §§ 180(2.1), (2.2), and (16);
- (b) Impose a total administrative penalty upon Respondent in the amount of Two Thousand Five Hundred Dollars (\$2,500); 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: January 25, 2023

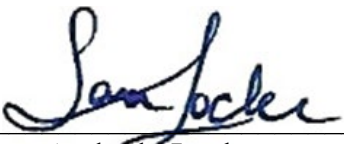
**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2023-
	:	
Martin Enterprises	:	

**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: January 25, 2023

  
\_\_\_\_\_  
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** AVR2020JUL090013  
**AVR Version** 1  
**First Name** STEPHEN **Last Name** KRAUSE  
**Company Name** PPL ELECTRIC UTILITIES  
**Address** 1801 BROOKWOOD ST  
**City** HARRISBURG  
**State** PA  
**Zip Code** 17104  
**Email** stkrause@pplweb.com **Phone** 7179263357  
**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)

**Type of Alleged Violation (?)** Excavator Issue

**Reason** Failed to plan the excavation or demolition work to avoid damage or minimize interference with a facility owner's facilities in a construction area §5(6)(i)

**When did the alleged violation occur?** (?) 07/08/2020

04:45:00 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** PERRY  
**Municipality** SPRING TWP  
**Ward**  
**Work Site** 355 Briner Road  
**Nearest Intersection** Dum Road  
**Second Intersection** Limestone Ridge Road  
**Geolocation** (?)

## Affected Facility Information

**Primary Right of Way Type** Private  
**Public Right of Way Type**  
**Private Right of Way Type** Land Owner

**Affected Operation** Electric  
**Facility Subtype Affected** Distribution  
**Facility Owner Company Name** PPL Electric Utilities

**Contact First Name** Stephen

**Last Name** Krause

**Address** 1801 Brookwood Street  
**City** Harrisburg  
**State** PA  
**Zip** 17104  
**Email** stkrause@pplweb.com **Phone** 717-926-3357  
**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** CONDUIT  
**Excavator Company Name** Martin Enterprises LLC  
**Contact First Name** Dana **Last Name** Martin  
**Address** 291 Briner Road  
**City** Elliotsburg  
**State** PA  
**Zip** 17024  
**Email** **Phone** 717-582-2738

**Marked in White**  Yes  No  Unknown

**Method of Excavation** DIGGING

**Equipment Used** What Equipment was used for excavation or demolition when the event occurred?  
BACKHOE/TRACKHOE

**Type of Excavator** What is the type of excavator for whom the work was being done when the event occurred?  
Property Owner/Leaser (business)

**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**

**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.) Pad-mounted Transformer

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 his 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** On Wednesday, 7/8/2020 a non-PPL excavator for Martin Enterprises contacted an underground primary cable while digging with a mini-excavator for installation of an electrical service conduit at 355 Briner Road, Elliottsburg, Spring Township, Perry County. There were no reported injuries. One customer lost power. The excavator did not make a PA One Call. PPL Public Safety investigation determined Martin Enterprises did not place a PA One Call to locate the position of PPL facilities prior to digging.  
If more space is needed, attach additional pages or documents.

**Attachments**

355 Briner Road Elliottsburg (1).jpg	163.63KB
355 Briner Road Elliottsburg (2).jpg	168.22KB

Attach pictures and additional documents

**Submit Date** 07/09/2020

## 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** Martin Enterprises LLC has placed notification with PA One Call in the past.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

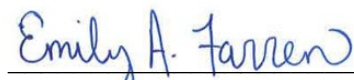
Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2023-
	:	
Martin Enterprises	:	

**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 Certified Mail**

Martin Enterprises  
291 Briner Road  
Elliottsburg, PA 17024



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

Pennsylvania Public Utility Commission  
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Date: January 25, 2023