



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

October 24, 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.
Municipal Authority of Hazle Township
Docket No. C-2023-
Damage Prevention Case 017047
I&E Formal Complaint

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Formal Complaint of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission in the above-referenced matter.

Copies are being served on the parties of record in accordance with the attached Certificate of Service.

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

Sincerely,

A handwritten signature in blue ink, appearing to read 'G. Rosul', is written over a light blue horizontal line.

Grant Rosul
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 318204
(717) 783-5243
grosul@pa.gov

GR/ac
Enclosures

cc: Michael L. Swindler, Deputy Chief Prosecutor, I&E-Enforcement (*via email*)
As per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-
	:	
Municipal Authority of Hazle Township,	:	Damage Prevention Case 017047
Respondent	:	

NOTICE

A. You must file an Answer within twenty (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. Pursuant to *Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements*, Docket No. M-2020-3019262 (Emergency Order ratified on March 20, 2020), you must 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.

Additionally, please electronically serve a copy on:

Grant Rosul, Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
grosul@pa.gov

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

C. You may elect not to contest this Complaint by paying the civil penalty within twenty (20) days and performing the corrective actions set forth in the requested relief. A certified check, cashier’s check or money order should be payable to the “Commonwealth of Pennsylvania” and mailed to:

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

Your payment is an admission that you committed the alleged violations and an agreement to cease and desist from committing further violations. Upon receipt of your payment, the Complaint proceeding shall be closed.

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 the Commission to issue an Order imposing the civil penalty and granting the requested relief as set forth in the Complaint.

E. If you file an Answer which contests the Complaint, the matter will proceed before the assigned presiding 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,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-
	:	
Municipal Authority of Hazle Township,	:	Damage Prevention Case 017047
Respondent	:	

FORMAL COMPLAINT

NOW COMES the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission, by its prosecuting attorneys, pursuant to Section 182 of the Underground Utility Line Protection Law (“UULPL” or “PA One Call Law”), Act of October 30, 2017, P.L. 806, No. 50, 73 P.S. § 182.8(c)(2), and files this Formal Complaint (“Complaint”) against the Municipal Authority of Hazle Township (“MAHT” or “Respondent”) alleging violations of the PA One Call Law in connection with an issue regarding the marking of sewer line lateral connections by an excavator while they were performing excavation work on July 30, 2020, for a sewer line replacement project on Winters Avenue near Autumn Lane in Hazle Township, Luzerne County. In support of its Complaint, I&E respectfully avers as follows:

I. COMMISSION JURISDICTION AND AUTHORITY

1. The Pennsylvania Public Utility Commission (“Commission” or “PUC”), with a mailing address of the Commonwealth Keystone Building, 400 North Street,

Harrisburg, PA 17120, is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate, *inter alia*, facility owners and project owners within the Commonwealth pursuant to the PA One Call Law, Act of October 30, 2017, P.L. 806, No. 50, 73 P.S. §§ 176 *et seq.*

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 (August 11, 2011) (delegating authority to initiate proceedings that are prosecutory in nature to I&E).

3. Complainant's prosecuting attorneys are as follows:

Grant Rosul
Prosecutor
grosul@pa.gov
(717) 783-5243

Michael L. Swindler
Deputy Chief Prosecutor
mwindler@pa.gov

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

4. Respondent is Municipal Authority of Hazle Township, with a main mailing address of 79 Harleigh Blvd, Pardeesville, PA 18202.

5. MAHT is a “facility owner,” as that term is defined in Section 176 of the PA One Call Law, 73 P.S. § 176.¹

6. Section 177 of the PA One Call Law, 73 P.S. § 177, imposes duties on facility owners.

7. Specifically, Section 177(5)(i.1) of the PA One Call Law, 73 P.S. § 177(5)(i.1), requires facility owners to, in relevant part, “identify the location of an actually known facility's point of connection to its facilities, where the point of connection is not owned or operated by the facility owner.” 73 P.S. § 177(5)(i.1).

8. MAHT is also a “project owner” as that term is defined in Section 176 of the PA One Call Law, 73 P.S. § 176.²

9. Section 181.1 of the PA One Call Law, 73 P.S. § 181.1, imposes duties on project owners.

10. Specifically, Section 181.1(1) of the PA One Call Law, 73 P.S. § 181.1(1), requires project owners to “utilize sufficient quality levels of subsurface utility engineering or other similar techniques whenever practicable to properly determine the existence and positions of underground facilities when designing known complex

¹ “Facility Owner” is defined as a “public utility or agency, political subdivision, municipality, **authority**, rural electric cooperative or other person or entity who or which owns or operates a line.” 73 P.S. § 176 (emphasis added). A “line” is synonymous with “facility” in the PA One Call Law. A “line” is defined as “an underground conductor or underground pipe or structure used in providing electric or communication service, or an underground pipe used in carrying, gathering, transporting or providing natural or artificial gas, petroleum, propane, oil or petroleum and production product, sewage, water or other service to one or more transportation carriers, consumers or customers of such service and the appurtenances thereto, regardless of whether such line or structure is located on land owned by a person or public agency or whether it is located within an easement or right-of-way. The term shall include unexposed storm drainage and traffic loops that are not clearly visible.” Id.

² “Project owner” is defined as “any person who or which engages an excavator for construction or any other project which requires excavation or demolition work.” 73 P.S. § 176.

projects having an estimated cost of four hundred thousand dollars (\$400,000) or more.”
73 P.S. § 181.1(1).

11. Section 181.1(3) of the PA One Call Law, 73 P.S. § 181.1(3), requires project owners to “not release to bid or construction any project until after final design is completed.” 73 P.S. § 181.1(3).

12. Respondent, as a facility owner and as a project owner, is subject to the authority of this Commission pursuant to Section 182.10 of the PA One Call Law, 73 P.S. § 182.10, which requires facility owners to comply with the PA One Call Law. 73 P.S. § 182.10.

13. Section 182.8(c)-(d) and Section 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 facility owners and project owners for violations of the PA One Call Law and to enforce the provisions of the PA One Call Law. 73 P.S. §§ 182.8(c)-(d) and 182.10.

14. Section 182.8(c)(2) of the PA One Call Law, 73 P.S. § 182.8(c)(2), authorizes the Commission’s prosecutorial staff to bring a formal complaint against entities subject to the PA One Call Law. 73 P.S. § 182.8(c)(2).

15. Section 182.10 of the PA One Call Law, 73 P.S. § 182.10(b)(1)(i)-(ii), authorizes the Commission to impose administrative penalties on any person or corporation, subject to the PA One Call Law, who violates any provisions of the PA One Call Law or any regulation or order issued thereunder governing underground utility lines, of up to \$2,500 per violation or if the violation results in injury, death, or property

damage of \$25,000 dollars or more an administrative penalty not to exceed \$50,000. 73
P.S. § 182.10(b)(1)(i)-(ii).

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

II. FACTUAL BACKGROUND

17. On or about July 30, 2020, DOLI Construction was excavating at Winters Avenue in Hazle Township as part of MAHT's Green Ridge Area Sewer Project and noticed that none of the sewer laterals were marked at the point of connection to the sewer main.

18. On August 5, 2020, DOLI filed an Alleged Violation Report ("AVR") stating that they had asked MAHT why the sewer laterals were not marked at the point of connection to the sewer main owned by MAHT and were told by MAHT that they could find the laterals as they dug through. I&E Exhibit 1.

19. Although the relevant locate ticket indicated that the sewer laterals were marked at the point of connection, there were in fact no markings indicating as such.

20. On November 12, 2020, MAHT filed an AVR providing further information to the Pennsylvania One Call System ("POCS") regarding this project. Specifically, MAHT indicated that the project was a "complex project" as that term is

defined in the PA One Call Law³ that cost in excess of \$400,000 and that MAHT was utilizing Quality Level C SUE.⁴ I&E Exhibit 2.

21. Upon further investigation by the Commission’s Damage Prevention Investigator (“DPI”), it was discovered that the final design⁵ ticket submitted to POCS under which the excavation work was being performed was from 2017.⁶

22. MAHT, as the project owner of a complex project, had the duty to “utilize *sufficient* quality levels of subsurface utility engineering or other similar techniques whenever practicable 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.” 73 P.S. § 181.1(1) (emphasis added).

23. MAHT, as the project owner, had the duty to “not release to bid or construction any project until after final design is completed.” 73 P.S. § 181.1(3).

24. On October 12, 2021, MAHT was notified by letter of the DPI report finding that MAHT was in violation of the PA One Call Law, and informing MAHT that they could either accept the findings and pay the assessed administrative penalty or dispute the findings before the Damage Prevention Committee (“DPC”). I&E Exhibit 3.

³ A “complex project” is “an excavation that involves more work than properly can be described in a single locate request or any project designated as such by the excavator or facility owner as a consequence of its complexity or its potential to cause significant disruption to lines or facilities and the public, including excavations that require scheduling locates over an extended time frame.” 73 P.S. § 176.

⁴ Subsurface Utility Engineering, or SUE, means “means those techniques set forth in the American Society of Civil Engineers (ASCE) most recently published standard CI/ASCE 38-02, or its successor document as determined by the One Call System.” 73 P.S. § 176.

⁵ “Final Design” is defined as the “engineering and construction drawings that are provided to a bidder or other person who is asked to initiate construction on the bid date or the date the project is set for construction in the absence of a bid.” 73 P.S. § 176.

⁶ Design Ticket 20170960436 submitted by Schumacher Engineering on April 16, 2017.

25. On October 13, 2021, MAHT informed the DPI that MAHT would dispute the findings of the DPI report before the DPC. I&E Exhibit 4.

26. On March 11, 2022, MAHT was informed by mail that the DPC would hear their case at the April 12, 2022, meeting. I&E Exhibit 5.

27. On April 12, 2022, MAHT was informed by mail that the DPC had adopted the findings of the DPI report, and informed MAHT that it could either accept the DPC's informal determination or reject it within 30 days of the date of the letter informing them of the informal determination, and that if the informal determination is rejected the case may be sent to I&E prosecutory staff for issuance of a formal complaint. I&E Exhibit 6.

28. On April 27, 2022, MAHT informed the Commission that it would reject the DPC's informal determination.

III. VIOLATIONS

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

Count 1

30. Respondent failed to locate an actually known facility's point of contact to its facility.

If proven, this is a violation of § 177(5)(i.1) of the PA One Call Law, 73 P.S. § 177(5)(i.1). As a "facility owner," Respondent was required to locate the point of contact of an actually known facility — in this case, the customer-owned lateral sewer service lines extending from the customers' homes — with its facility (Respondent's sewer main). 73 P.S. § 177(5)(i.1).

Because they connect to its sewer main, Respondent would have been aware of the location of the lateral sewer lines and should have marked them for the excavator. Instead, DOLI Construction — the excavator in this case — informed POCS via an AVR that it was instructed by Respondent to “dig through” the area to verify the location of the lateral sewer lines. Additionally, Respondent stated that the area was marked in response to the excavator’s locate request ticket when in fact the area was not marked by Respondent.

The Bureau of Investigation and Enforcement’s proposed administrative penalty for this violation is \$500.

Count 2

31. Respondent failed to use a sufficient Quality Level of SUE. As a project owner, Respondent is responsible for ensuring that the proper level of SUE is utilized whenever practicable to properly determine the existence and positions of underground facilities on complex projects having an estimated cost of four hundred thousand dollars (\$400,000) or more.

If proven, this is a violation of § 181.1(1) of the PA One Call Law, 73 P.S. 181.1(1). Respondent’s AVR indicated that Quality Level C SUE was used on the project at issue here, the Green Ridge Area Sewer Replacement project. The project was classified as a complex project that cost more than \$400,000.

As alleged in Paragraph 15, Respondent instructed DOLI Construction to “dig through” to find the point of connection of the sewer laterals to Respondent’s sewer main. Quality Level C SUE was an insufficient level of subsurface utility engineering

techniques used on this project.⁷ The Pennsylvania811 Users Guide instructs that, on complex projects that cost \$400,000 or more, at least Quality Level B SUE be applied to more accurately ascertain the location of an underground facility.⁸

The Bureau of Investigation and Enforcement’s proposed penalty for this violation is \$500.

Count 3

32. Respondent released a project to bid or construction before the final design was complete.

If proven, this is a violation of Section 181.1(3) of the PA One Call Law, 73 P.S. § 181.1(3). It is the project owner’s responsibility to not release any project to bid or construction until after the final design is completed. The final design is not completed until a final design ticket has been submitted with POCS between 10 and 90 days prior to bid or construction. The final design ticket was submitted to POCS in April 2017. Construction was required to commence within 10 to 90 days after the submission of the final design ticket. Here, construction did not commence for more than three years after the final design ticket was submitted.

⁷ Utility Quality Level C is defined as the “[i]nformation obtained by surveying and plotting visible above-ground utility features and by using professional judgment in correlating this information to quality level D information.” American Society of Civil Engineering (2002). *Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data*. ASCE Codes and Standards Activity Committee (CSAC), New York, NY.

⁸ Pennsylvania811 Users Guide (Apr. 24, 2023) (citing ASCE 38-22); Utility Quality Level B is defined as the “information obtained through the application of appropriate surface geophysical methods to determine the existence and approximate horizontal position of subsurface utilities. Quality level B data should be reproducible by surface geophysics at any point of their depiction. This information is surveyed to applicable tolerances defined by the project and reduced onto plan documents.” American Society of Civil Engineering (2002). *Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data*. ASCE Codes and Standards Activity Committee (CSAC), New York, NY.

The Bureau of Investigation and Enforcement's proposed penalty for this violation is \$500.

WHEREFORE, for all the foregoing reasons, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement respectfully requests that the Commission:

- (1) Find Respondent to be in violation of the PA One Call Law at 73 P.S. §§ 177(5)(i.1), 181.1(1), and 181.1(3);
- (2) Impose a cumulative administrative penalty upon Respondent in the amount of \$1,500; and
- (3) Order Respondent to attend an educational program for facility owners through the DPC and provide proof of compliance to the Commission; and
- (4) Order such other remedies as the Commission may deem appropriate.

Respectfully submitted,



Grant Rosul
Prosecutor
PA Attorney ID No. 318204

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 783-5243
grosul@pa.gov

Date: October 24, 2023

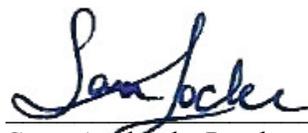
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-
	:	
Municipal Authority of Hazle Township,	:	Damage Prevention Case 017047
Respondent	:	

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 that the Bureau of Investigation and Enforcement 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: October 24, 2023



Sara Andrade-Locke
Damage Prevention Supervisor
Damage Prevention Section
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
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 AVR2020AUG050028

AVR Version 1

First Name JAKE **Last Name** READING

Company Name DOLI CONSTRUCTION

Address 120 INDEPENDENCE LANE

City CHALFONT

State PA

Zip Code 18914

Email JREADING@DOLICONS
TRUCTION.COM **Phone** 2156224049

Ext

Role

Submitter Role(s) (?)

<input type="checkbox"/> Facility Owner	<input type="checkbox"/> Designer
<input checked="" 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 (?) Facility Owner Issue

Reason Failure to locate point of connection to facility lines (service or abandoned lines) §2(5)

When did the alleged violation occur? (?) 07/30/2020
07:00:00 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.

20201973396

Related Damage Serial Number, if applicable

Other Related Serial Numbers (?) 20202102533

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

Reason for Exemption

Event Information

County LUZERNE
Municipality HAZLE TWP
Ward 0
Work Site WINTERS AVE
Nearest Intersection AUTUMN LANE
Second Intersection YUKNIS ST
Geolocation (?)

Affected Facility Information

Primary Right of Way Type Public
Public Right of Way Type City Street
Private Right of Way Type

Affected Operation Sewer
Facility Subtype Affected Gathering
Facility Owner Company Name Hazle Twp Municipal Authority

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

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

Work Information



Start Date of Excavation (?)

Excavation Activity

Excavator Company Name DOLI Construction Corporation

Contact First Name Jake Last Name Reading

Address 120 Independence Lane

City Chalfont

State Pa

Zip 18914

Email jreading@doliconstruction.com Phone 2156224049

Marked in White Yes No Unknown

Method of Excavation

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

Type of Excavator What is the type of excavator for whom the work was being done when the event occurred?

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?

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?

Exact Value of Service Interruption

Approximately how many customers were affected?

Exact Number of Customers Affected

Cost of Damaged Line Repair?

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.)

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

Response to both Pa 1 call tickets says field marked, but there are no marks for the laterals including the connection point to the main, we are replacing the sewer and they told us we could find the laterals as we dug through. We have a video documenting this but it is too large to upload.

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

Attachments

Attach pictures and additional documents

Submit Date

08/05/2020

Compliance Update

Research Result

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

Additional Tickets Found

Additional Serial Numbers

20200771819

Additional Serial Numbers

20170960436

Additional Serial Numbers

Ticket Attachment

SN-20201973396-20202102533-20200771819-20170960436-cpa-2.pdf	5.03MB
SN-20201973396-20202102533-20200771819-20170960436-cpa-1.pdf	9.46MB
SN-20201973396-20202102533-20200771819-20170960436.pdf	4.3MB

Comments

I&E Exhibit 2

Alleged Violation Report

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

AVR Number AVR2020NOV120012

AVR Version 1

First Name JOSEPH **Last Name** SMITH

Company Name HAZLE TOWNSHIP MUNICIPAL AUTHORITY OF

Address PO BOX 502

City HARLEIGH

State PA

Zip Code 18225

Email joesmithmaht@ptd.net **Phone** 5704595921

Ext

Role

Submitter Role(s) (?)

<input type="checkbox"/> Facility Owner	<input type="checkbox"/> Designer
<input type="checkbox"/> Excavator	<input checked="" 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) 17047

Related AVR Number (?)

Type of Alleged Violation (?) Facility Owner Issue

Reason

Type of Alleged Violation (?) Excavator Issue

Reason

When did the alleged violation occur? (?) 07/30/2020

11:00:00 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.

20201973396

Related Damage Serial Number, if applicable

Other Related Serial Numbers (?) 20202102533

Other Related Serial Numbers (?) 20200771819

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

Reason for Exemption

Event Information



County LUZERNE

Municipality HAZLE TWP

Ward 0

Work Site WINTERS AVE

Nearest Intersection AUTUMN LANE

Second Intersection YUKNIS ST

Geolocation (?)

Affected Facility Information



Primary Right of Way Type Public

Public Right of Way Type City Street

Private Right of Way Type

Affected Operation Sewer

Facility Subtype Affected Service/Drop/Lateral

Facility Owner Company Name

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

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

Work Information



Start Date of Excavation (?)

Excavation Activity SEWER - SANITARY

Excavator Company Name Doli Construction Corp.

Contact First Name Steve Last Name Johnston

Address 120 Independence Lane

City Chalfont

State PA

Zip 18914

Email sjohnston@dolicconstruction.com Phone 215-783-1558

Marked in White Yes No Unknown

Method of Excavation TRENCHING

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?
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? C (Above ground survey)

Estimated cost of the entire project \$400,000 or more

What was the length of the entire project? 5000 feet

Project Owner Company Name Municipal Authority of Hazle Township

Contact First Name Last Name

Address

City

State

Zip

Email Phone

Event Impact



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

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?

Exact Value of Service Interruption

Approximately how many customers were affected?

Exact Number of Customers Affected

Cost of Damaged Line Repair?

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? Employee 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 Visible

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.) existing sewer pipeline

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 Please see the attached letter dated November 11, 2020 from the Slusser Law Firm pertaining to this matter. Actual date and time of the alleged violation is unknown by the project owner. I also tried to upload the construction plans, however I was unable to due to the system only allowing up to 10 MB. Please advise.
If more space is needed, attach additional pages or documents.

Attachments 20201111095803.pdf 134.96KB
Attach pictures and additional documents

Submit Date 11/12/2020

Compliance Update

Research Result Listed tickets found
 Additional tickets found
 No tickets found

Additional Tickets Found

Additional Serial Numbers 20201973396

Additional Serial Numbers 20202102533

Additional Serial Numbers 20200771819

Additional Serial Numbers 20201973396

Additional Serial Numbers 20201892312

Additional Serial Numbers 20201550388

Additional Serial Numbers 20201412492

Additional Serial Numbers 20201283554

Ticket Attachment	765083 CPA PROJECT.pdf	8.57MB
	SN-20201283554-20201412492-	
	20201550388-20201892312-	
	20201973396-20200771819-	2.84MB

20202102533-20201973396.pdf

Comments

I&E Exhibit 3



Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
 Harrisburg, PA 17105-3265
ADMINISTRATIVE PENALTY INVOICE

Hazle Twp Municipal Authority
 Attn: Joe Smith
 79 Harleigh Blvd.
 Pardeesville, PA 18202

INVOICE DATE	INVOICE NUMBER
10-12-2021	017047-003336
FISCAL YEAR	
July 1, 2021 - June 30, 2022	

- **Carefully Read All Enclosed information**
- **Use Return Envelope Provided**
- **Make Check Payable to:
Commonwealth of Pennsylvania**

TO RECEIVE PROPER CREDIT FOR YOUR
 PAYMENT, REMOVE THE BOTTOM PART
 OF THIS INVOICE AT THE PERFORATION
 AND RETURN WITH YOUR REMITTANCE

MAIL PAYMENT TO:

PENNSYLVANIA PUBLIC UTILITY COMMISSION
 DAMAGE PREVENTION COMMITTEE
 PO BOX 3265
 HARRISBURG, PA 17105-3265

 FOLD AND CUT HERE

RETURN THIS PORTION WITH YOUR REMITTANCE

Hazle Twp Municipal Authority
 Attn: Joe Smith
 79 Harleigh Blvd.
 Pardeesville, PA 18202

INVOICE DATE	INVOICE NUMBER
10-12-2021	017047-003336
FISCAL YEAR	
July 1, 2021 - June 30, 2022	

PAY THIS AMOUNT WITHIN 30 DAYS

\$500.00



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

IN REPLY
PLEASE
REFER TO 811

October 12, 2021

Hazle Twp Municipal Authority
Attn: Joe Smith
79 Harleigh Blvd.
Pardeesville, PA 18202

Re: Notification of Revised Damage Prevention Investigator Report

To whom it may concern,

We are writing to inform you that your company, Hazle Twp Municipal Authority, has been identified as a stakeholder in a case that was discussed by the Damage Prevention Committee (DPC) at a meeting on **October 05, 2021** regarding alleged violations of the Underground Utility Line Protection Law, Act of October 30, 2017, P.L.806, No. 50 (hereinafter referred to as "Act 50"), 73 P.S. §§ 176, et seq.

The purpose of the discussion by the DPC was to gather more information and recommend an administrative penalty regarding the following case:

- Case No. 017047 - Excavation in HAZLE TWP, LUZERNE County on **July 30, 2020** near WINTERS AVE. (Related POCS Ticket Nos.: 20170960436, 20200771819, 20201973396 and 20202102533.)

Enclosed is a Revised Damage Prevention Investigator (DPI) Report, which contains the DPI's findings and recommendations.

In response to the Revised DPI Report, you must choose one (1) of the following options:

- 1. Accept the findings and administrative penalty contained in the Revised DPI Report by checking the "Acknowledgment" box on the enclosed invoice and remit payment of the administrative penalty using the enclosed invoice within thirty (30) days of the date of this letter. If the DPI Report recommends mandatory training, you will receive a separate letter with further instructions.**
- 2. Reject the Revised DPI Report and present your case before the DPC at a future DPC Meeting. To reject the DPI Report, you must inform the DPC in writing within thirty (30) days of the date of this letter by first class mail at the address provided below or by email at damageprevention@pa.gov. You will receive notice of the date, time and location of the DPC Meeting.**

If you fail to respond to the Revised DPI Report within thirty (30) days of the date of this letter, then this matter will be placed on the DPC's meeting agenda and voted upon by the DPC in your absence.

If you have any questions, please contact damageprevention@pa.gov or call 717-787-6489.

Sincerely,

Sara Locke
Bureau of Investigation and Enforcement
400 North Street
Harrisburg, PA 17120

Enclosures



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY
PLEASE
REFER TO 811

October 12, 2021

Investigation

Investigator name: Locke, Sara **Incident date:** 07/30/20 07:00 AM

Case Number: 017047 **Was 911 called?** No **Did damage occur?** No

Site of Alleged Violation: WINTERS AVE
HAZLE TWP, LUZERNE County
Near AUTUMN LANE and YUKNIS ST

What type of underground facility was damaged? Sewer Gathering

Facility Owner: Joe Smith, Hazle Twp Municipal Authority, 79 Harleigh Blvd., Pardeesville, PA, 18202
Submitted report? Yes **Is PA One Call member?** Yes

Contractor/Excavator: Jake Reading, DOLI Construction Corporation, 120 Independence Lane, Chalfont, PA, 18914
Submitted report? Yes **Is PA One Call member?** Yes

Designer: Bill Solonoski, Schumacher Engineering, 55 N. Conahan Drive, Hazleton, PA, 18201
Submitted report? No **Is PA One Call member?** Yes

Ticket Information: 20201973396 / Routine / 07/15/20, 02:43 PM (DOLI Construction Corporation), 20202102533 / Routine / 07/28/20, 01:27 PM (DOLI Construction Corporation), 20200771819 / Complex Project / 03/17/20, 12:07 PM (DOLI Construction Corporation), 20170960436 / Design / 04/06/17, 08:45 AM (Schumacher Engineering)

Other Investigations Related by Ticket: None

Synopsis of the events that led to the damaged facility:

****NO DAMAGE****

Incident occurred on 7/30/20 on Winters Avenue, Hazle Township, Luzerne County.

Doli has reported that Hazle Township Municipal Authority hired them to replace their sewer and when Doli questioned why none of the laterals were marked at the current main, they were told to just dig through them. Act 50 states that the laterals should be marked at the point of connection to the main. During research for this report, it was also discovered that the most recent Design Ticket was Ticket for this project is No. 20170960436, which was more than 3 years old when this project was released to bid or construction. Hazle TWP has admitted in their AVR that they only used level C SUE for a project that cost over \$400,000. Hazle TWP's attorney argues that the municipal authority is not obligated to mark the point of connection to the main, please see his attached letter.

On October 27, 2020, DPI Locke sent an AVR email to Hazle Twp. Hazle's attorney responded on November 11, asking how to fill out an AVR and stating that he had just received the letter. DPI Locke sent him to PA One Call and Hazle Township did submit an AVR on November 12, 2020. The penalty has been reduced to \$0 for failing to submit an AVR.

Hazle Township Municipal is cited for releasing a project to bid or construction without a valid design ticket, failing to mark their laterals at the point of connection to the main, failure to use sufficient levels of SUE for a project exceeding \$400,000 and failure to submit an AVR within 10 business days of committing a violation of Act 50. All penalties have been reduced by 50% with mandatory training. The final design ticket was from 2017 and therefore does not meet the criteria for 10-90 days.

Amount of property damage: none **Impact on public:** unknown

Entity out of compliance Hazle Twp Municipal Authority

Compliance Violations:

Section	Status	Ticket Number	Offense	Penalty	Factor	Factor Penalty	Total Penalty
2 (5)(i.1)	Proposed		1st Offense	\$125.00	0 %	\$0.00	\$125.00
Recommendation: 1st ever offense. Penalty reduced by 50% from \$250.00 to \$125.00. Education is mandatory.							
6.1 (1)	Proposed		1st Offense	\$125.00	0 %	\$0.00	\$125.00
Recommendation: 1st ever offense. Penalty reduced by 50% from \$250.00 to 4125.00. Education is mandatory.							
6.1 (3)	Proposed		1st Offense	\$250.00	0 %	\$0.00	\$250.00
Recommendation: 1st ever offense. Penalty reduced by 50% from \$500.00 to \$250.00. Education is mandatory.							
6.1 (7)	Proposed		1st Offense	\$0.00	0 %	\$0.00	\$0.00
Recommendation: 1st ever offense. Penalty reduced from \$250.00 to a warning. Education is mandatory.							
Totals				\$500.00		\$0.00	\$500.00

Previous Violations:

No Previous Violations

Name of Investigator: Locke, Sara **Date completed:** 12/01/20 09:31 AM

Name of Supervisor: Locke, Sara **Date completed:** 07/07/21 02:11 PM

I&E Exhibit 4



SLUSSER
LAW FIRM

October 13, 2021

**VIA E-MAIL (damageprevention@pa.gov)
AND VIA FIRST CLASS MAIL, POSTAGE PRE-PAID**

Sara Locke
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
400 North Street
Harrisburg, Pa. 17120

Re: Municipal Authority of Hazle Township ("MAHT")/Notification of Damage Prevention Investigator Report

Dear Ms. Locke:

I am in receipt of your e-mail of earlier today with your attached letter, dated October 12, 2021, regarding the above-referenced matter.

MAHT rejects the revised DPI Report and wishes to present its case before the DPC at a future DPC meeting.

Please provide notice of the date, time and location of the DPC meeting.

Thank you.

Very truly yours,

Jeffrey A. Rockman, Esq.

Solicitor, Municipal Authority of Hazle Township

17047

A NAME YOU KNOW AND TRUST

I&E Exhibit 5



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

March 11, 2022

Hazle Twp Municipal Authority
 Attn: Joe Smith
 P.O. Box 506
 Harleigh, PA 18225

Re: Notification of Damage Prevention Committee Meeting

To whom it may concern,

We are writing to inform you that the Damage Prevention Committee (DPC) is in receipt of your request to appear before it and present your position regarding Case No. 017047. This case involves an excavation in HAZLE TWP, LUZERNE County on **July 30, 2020** near WINTERS AVE.

This case has been scheduled for discussion at a virtual, DPC Meeting on **April 12, 2022 at 09:00 AM**. To attend the DPC Virtual MS Teams Meeting please access the following link <https://www.puc.pa.gov/pipeline/pa-one-call/>, click on > Damage Prevention Committee > Committee Meetings.

Based on the Damage Prevention Investigator's ("DPI") report regarding this case, the following violations will be presented at the DPC Meeting:

Section		Offense
2 (5)(i.1)	Failed to locate an actually known facility's point of connection to its facilities	1st Offense
6.1 (1)	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	1st Offense
6.1 (3)	Released a project to bid or construction before final design was complete	1st Offense
6.1 (7)	Project owner failed to submit an Alleged Violation Report within 10 business days of a line strike	1st Offense

At the meeting, the DPC will discuss and determine whether to accept the DPI's recommendation regarding this case. Hazle Twp Municipal Authority may have one (1) representative of its choosing to present its position before the DPC. The representative may be asked to answer technical questions and present additional evidence that has not already been provided to the Commission. Legal representation is permitted at the DPC Meeting for the purpose of advising the representative only.

All DPC Meetings are open to the public. If you have any questions, please contact damageprevention@pa.gov or call 717-787-6489.

Sincerely,


Sara Locke
 Bureau of Investigation and Enforcement
 400 North Street
 Harrisburg, PA 17120

I&E Exhibit 6



Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
 Harrisburg, PA 17105-3265
ADMINISTRATIVE PENALTY INVOICE

Hazle Twp Municipal Authority
 Attn: Joe Smith
 P.O. Box 506
 Harleigh, PA 18225

INVOICE DATE	INVOICE NUMBER
04-12-2022	017047-003336-1
FISCAL YEAR	
July 1, 2021 - June 30, 2022	

- **Carefully Read All Enclosed information**
- **Use Return Envelope Provided**
- **Make Check Payable to:
Commonwealth of Pennsylvania**

TO RECEIVE PROPER CREDIT FOR YOUR PAYMENT, REMOVE THE BOTTOM PART OF THIS INVOICE AT THE PERFORATION AND RETURN WITH YOUR REMITTANCE

MAIL PAYMENT TO:

PENNSYLVANIA PUBLIC UTILITY COMMISSION
 DAMAGE PREVENTION
 PO BOX 3265
 HARRISBURG, PA 17105-3265

 FOLD AND CUT HERE

RETURN THIS PORTION WITH YOUR REMITTANCE

Hazle Twp Municipal Authority
 Attn: Joe Smith
 P.O. Box 506
 Harleigh, PA 18225

INVOICE DATE	INVOICE NUMBER
04-12-2022	017047-003336-1
FISCAL YEAR	
July 1, 2021 - June 30, 2022	

PAY THIS AMOUNT WITHIN 30 DAYS

\$500.00



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

IN REPLY
PLEASE REFER
TO 811

One Call Enforcement

April 12, 2022

Hazle Twp Municipal Authority
Attn: Joe Smith
P.O. Box 506
Harleigh, PA 18225

Re: Notification of Damage Prevention Committee Informal Determination

To whom it may concern,

We are writing to inform you that Hazle Twp Municipal Authority was identified as a stakeholder in one or more cases that were discussed and voted upon by the Damage Prevention Committee (DPC) at a meeting on **April 12, 2022** regarding alleged violation(s) of the Underground Utility Line Protection Law, Act of October 30, 2017, P.L.806, No. 50 (hereinafter referred to as "Act 50"), 73 P.S. §§ 176 et seq.

During the meeting, the DPC voted on the following case(s):

- Case No. 017047 - Excavation in HAZLE TWP, LUZERNE County on **July 30, 2020** near WINTERS AVE. (Related PA One Call Ticket Nos.: 20170960436, 20200771819, 20201973396 and 20202102533.)

The DPC specifically made the following informal determination(s) regarding the aforementioned case(s):

Section	Offense	Penalty	Factor	Factor Penalty	Total Penalty	
2 (5)(i.1)	Failed to locate an actually known facility's point of connection to its facilities	1st Offense	\$125.00	0 %	\$0.00	\$125.00
Recommendation: 1st ever offense. Penalty reduced by 50% from \$250.00 to \$125.00. Education is mandatory.						
6.1 (1)	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	1st Offense	\$125.00	0 %	\$0.00	\$125.00
Recommendation: 1st ever offense. Penalty reduced by 50% from \$250.00 to 4125.00. Education is mandatory.						
6.1 (3)	Released a project to bid or construction before final design was complete	1st Offense	\$250.00	0 %	\$0.00	\$250.00
Recommendation: 1st ever offense. Penalty reduced by 50% from \$500.00 to \$250.00. Education is mandatory.						
6.1 (7)	Project owner failed to submit an Alleged Violation Report within 10 business days of a line strike	1st Offense	\$0.00	0 %	\$0.00	\$0.00
Recommendation: 1st ever offense. Penalty reduced from \$250.00 to a warning. Education is mandatory.						
Total			\$500.00		\$0.00	\$500.00

In response to the DPC's informal determination(s), as set forth above, you must choose one (1) of the following options:

1. **Accept the DPC's informal determination by remitting payment of the administrative penalty using the enclosed invoice within thirty (30) days of the date of this letter. If the DPC's informal determination includes mandatory training, you will receive a separate letter with further instructions.**
2. **Reject the DPC's informal determination by informing the DPC in writing within thirty (30) days of the date of this letter by first class mail at the address provided below or by email at damageprevention@pa.gov. If you choose to reject the informal determination, the matter will be returned to the Damage Prevention Investigator for further action, if appropriate, including referring the matter to the Pennsylvania Public Utility Commission's (Commission) Bureau of Investigation and Enforcement for the purpose of issuing a formal complaint.**

If you fail to respond to the DPC's informal determination within thirty (30) days of the date of this letter, then the informal determination shall become final and binding on the Commission. Appeals from final action of the Commission shall be filed in the Commonwealth Court within thirty (30) days of the date the informal determination becomes final.

If you have any questions concerning this matter, please call 717-787-6489 or contact damageprevention@pa.gov

Sincerely,

A handwritten signature in black ink, appearing to read 'TCS', is positioned above the typed name.

Terri Cooper Smith, Chairperson
Damage Prevention Committee
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-
	:	
Municipal Authority of Hazle Township,	:	Damage Prevention Case 017047
Respondent	:	

CERTIFICATE OF SERVICE

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

Service by Certified Mail

Municipal Authority of Hazle Township
Attn: Joe Smith
79 Harleigh Blvd.
Pardeesville, PA 18202



Grant Rosul
Prosecutor
PA Attorney ID No. 318204

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 783-5243
grosul@pa.gov

Dated: October 24, 2023