



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

October 31, 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.
Froman Excavating
Docket No. C-2023-
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, appearing to read 'G. Rosul', is enclosed in a thin blue rectangular border.

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

GR/jfm
Enclosures

cc: Per Certificate of Service

NOTICE

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

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

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

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

Additionally, please serve a copy on:

Michael L. Swindler, Deputy Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
400 North Street
Harrisburg, PA 17210

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,	:	
Complainant	:	
	:	
v.	:	Docket No.: C-2023-
	:	
Froman Excavating,	:	Damage Prevention Case 016741
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 Sections 182.8(d) and 182.10 of the Underground Utility Line Protection Law, Act of October 30, 2017, P.L. 806, No. 50 (hereinafter “UULPL” or “PA One Call Law”), 73 P.S. §§ 182.8(d) and 182.10¹ and files this Formal Complaint (“Complaint”) against Froman Excavating (“Froman” or “Respondent”) alleging violations of the PA One Call Law in connection with a line strike on a secondary wire while performing excavation work in the area of 36- 59 Cricket Avenue near Cricket Terrace and East Athens Avenue in Lower Merion Township, Montgomery County. In support of its Complaint, I&E respectfully avers as follows:

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

I. COMMISSION JURISDICTION AND AUTHORITY

1. The Pennsylvania Public Utility Commission (“Commission”), 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, *inter alia*, enforce compliance by excavators 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 (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 Froman Excavating, with a main mailing address of 5660 Easton Rd, Pipersville, PA 18947, formerly of P.O. Box 147, Plumsteadville, PA, 18949.

5. Froman Excavating is an “excavator,” as that term is defined in Section 176 of the PA One Call Law, 73 P.S. § 176.²

6. Section 180 of the PA One Call Law, 73 P.S. § 180, imposes duties on excavators who perform excavation or demolition work in the Commonwealth. 73 P.S. § 180.

7. Specifically, Section 180(16) of the PA One Call Law, 73 P.S. § 180(16), requires excavators to submit a report of an alleged violation to the Commission through the One Call System not more than ten business days after striking or damaging a facility owner's line during excavation or demolition or if the excavator believes a violation of this act has been committed in association with excavation or demolition work. 73 P.S. § 180(16).

8. Respondent, as an excavator, 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 excavators to comply with the PA One Call Law. 73 P.S. § 182.10.

9. 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 issued by the

² “Excavator” is defined as any person who or which performs excavation or demolition work for himself or for another person.” 73 P.S. § 176. “Excavation work” is further 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.” Id.

Pennsylvania damage Prevention Committee (“DPC”), against excavators 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.

10. 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).

11. Section 182.10(b)(1)(i)-(ii) of the PA One Call Law, 73 P.S. § 182.10(b)(1)(i)-(ii), authorizes the Commission to impose civil penalties on any person or corporation, subject to the PA One Call Law, who violates any provision 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 or more an administrative penalty not to exceed \$50,000. 73 P.S. § 182.10(b)(1)(i)-(ii).

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 22, 2020, Froman Excavating was using a track hoe to excavate for new granite curbing and struck a “secondary [electric] wire” that fed commercial properties at 36- 59 Cricket Avenue, near Cricket Terrace and East Athens Avenue in Lower Merion Township, Montgomery County.

14. Froman had placed a valid PA One Call locate request Ticket at #20201993306. I&E Exhibit 1.
15. Despite placing a PA One Call locate request, the area was not properly marked by USIC.
16. USIC failed to notify Froman that it did not mark the area and closed the ticket in error.
17. Froman failed to submit an Alleged Violation Report (“AVR”) within 10 days of the July 22, 2020, line strike incident.
18. A courtesy letter was sent by the Damage Prevention Investigator (“DPI”) to Froman on September 22, 2021, requesting that they submit an AVR. I&E Exhibit 2.
19. Froman again failed to submit an AVR.
20. On April 22, 2022, the DPI sent Froman a copy of the DPI’s report, finding Froman in violation of 73 P.S. § 180(16) for failing to timely file an AVR with the PA One Call System. No penalty was assessed, but Froman was ordered to attend an educational seminar on the PA One Call Law. I&E Exhibit 3.
21. On July 13, 2022, Froman was informed of the Damage Prevention Committee’s (“DPC”) decision to adopt the DPI report as its informal determination. The letter sent to Froman also informed Froman that it could reject the DPC’s information determination by informing the DPC in writing within thirty (30) days of the date of the letter. I&E Exhibit 4.
22. On July 19, 2022, Froman conveyed to the DPI via e-mail that its communication was to serve as a “formal appeal” of the DPC’s informal determination

on the ground that “the GC made the formal report as required.” Froman claimed that their employee contacted the general contractor (GC) who then contacted PECO. Froman also stated that, while they were disputing the violation, they would attend the online compliance training for excavators on August 19, 2022.

23. Froman failed to attend or complete the compliance training. I&E Exhibit 5.

III. VIOLATIONS

24. Paragraphs 1-23 above are incorporated herein as if stated in their entirety.

25. Respondent failed to submit an AVR within 10 business days after striking a line on July 22, 2020.

If proven, this is a violation of Section 180(16) of the PA One Call Law, 73 P.S. § 180(16), requiring excavators to “submit a report of an alleged violation to the commission through the One Call System not more than ten business days after striking or damaging a facility owner's line during excavation or demolition or if the excavator believes a violation of this act has been committed in association with excavation or demolition work.”

The Bureau of Investigation and Enforcement’s proposed administrative penalty for this violation is \$1,000.

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. § 180(16);

- (2) Impose an administrative penalty upon Respondent in the amount of \$1,000;
- (3) Order Respondent to attend an educational program for excavators 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 31, 2023

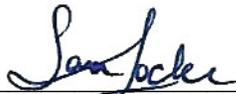
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No.: C-2023-
	:	
Froman Excavating,	:	Damage Prevention Case 016741
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 31, 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

CDC 00000 POCs MM/DD/YY TT:TT:TT 20201993306-000 NEW XCAV RTN

=====PENNSYLVANIA UNDERGROUND UTILITY LINE PROTECTION REQUEST=====

Serial Number--[20201993306]-[000] Channel#--[1638A033][0376][2019-08]
Message Type--[NEW][EXCAVATION][ROUTINE]

County--[MONTGOMERY] Municipality--[LOWER MERION TWP]
Work Site--[CRICKET AVE]
Nearest Intersection--[CRICKET TERRACE]
Second Intersection--[E ATHENS AVE]
At Intersection--[N] Between Intersections--[Y] Site Marked in White--[N]
Subdivision--[]

Location Information--
[PROPERTIES 47 THROUGH 65 CRICKET AVE HAS BEEN DEMOLISHED AND ARE NOW
COMBINED.]

Caller Lat/Lon--[]
Mapped Type--[P] Mapped Lat/Lon--
[40.006953/-75.292514,40.006545/-75.292194,40.006823/-75.291609,
40.007302/-75.291990,40.007022/-75.292583]
Attachments--[http://www.pa811.org/attachments/20201993306]

Type of Work--[CURBS SIDEWALKS AND UTILITIES] Depth--[4FT]
Extent of Excavation--[200FT LONG] Method of Excavation--[POWER EQUIP]
Equip Type--[EXCAVATOR]
Street--[X] Sidewalk--[] Pub Prop--[X] Pvt Prop--[X] Other--[]
Private Front--[X] Rear--[] Left--[] Right--[]

Lawful Start Dates--[22-Jul-20] thru [31-Jul-20] Response Due Date--[21-Jul-20]
Scheduled Excavation Date--[22-Jul-20] Dig Time--[0700] Duration--[4 WEEKS]

Caller--[JIM TOPLEY]
Caller Phone--[267-446-3848]
Excavator--[FRMAN EXCAVATING]
Address--[PO BOX 147]
City--[PLUMSTEADVILLE] State--[PA] zip--[16949]
FAX--[] Caller Type--[B]
Email--[jtopley@aol.com]
Work For--[HOW PROPERTYIES]
Onsite Contact--[JIM TOPLEY]
Onsite Contact Phone--[267-446-3848]
Best Time to Call--[ANYTIME]
Onsite Contact Email--[jtopley@aol.com]
Job Number--[CRICKET AVE]

Prepared--[17-Jul-20] at [1644] by [LUKE NAVARRO]
Remarks--
[]

AD 0 AD =L MERION T DA 0 DA =COMCAST LWR MER HS 0 HS =AQUA PA
KE 0 KE =PECO MRTN PLL0 PLL=ZAYO/PPL/ABVNET YA 0 YA =VERIZON PA PHIL
YI 0 YI =VERIZON EASTERN

Serial Number--[20201993306]-[000]
----- Copyright (c) 2020 by Pennsylvania One Call System, Inc. -----

RESPONSES for S/N 20201993306:

Ver	CDC	Name	Response	Time	Respondent
0	AD	LOWER MERION TOWNSHIP	3-FIELD MARKED	07/20/2020 07:57:46	FP-WEB
0	DA	COMCAST CABLEVISION OF LO	1-CLEAR NO FACIL	07/21/2020 15:40:21	UQ-WEB SVC
0	HS	AQUA PENNSYLVANIA INC	3-FIELD MARKED	07/21/2020 15:14:25	MS-WEB
0	KE	DECO ENERGY	3-FIELD MARKED	07/23/2020 10:58:00	CLS-WEB SVC
0	KE	DECO ENERGY	2-CONFLICT. DCTF	07/21/2020 19:31:18	CLS-WEB SVC
0	PLL	ZAYO BANDWIDTH FORMERLY D	1-CLEAR NO FACIL	07/20/2020 08:06:47	SCL-WEB SVC
0	YA	VERIZON PENNSYLVANIA LLC	9-NO RESPONSE**	07/22/2020 00:30:10	-KARL
0	YI	VERIZON PENNSYLVANIA LLC	3-FIELD MARKED	07/21/2020 08:41:04	AAA-WEB SVC

DELIVERIES for s/N 20201993306:

Ver	CDC	Name	To	Time	Seq	Type
0	AD	LOWER MERION TOWNSHIP	AD	07/17/2020 16:45:01	19	MAIL
0	DA	COMCAST CABLEVISION OF LOWER	DA	07/17/2020 16:45:02	20	MAIL
0	HS	AQUA PENNSYLVANIA INC	HS	07/17/2020 16:45:04	112	MAIL
0	KE	PECO ENERGY	KE	07/17/2020 16:45:05	171	MAIL
0	YA	VERIZON DENNSYLVANIA LLC	YA	07/17/2020 16:45:06	295	MAIL
0	YI	VERIZON DENNSYLVANIA LLC	YI	07/17/2020 16:45:07	638	MAIL
0	PLL	ZAYO BANDWIDTH FORMERLY DPL T	PLL	07/17/2020 16:45:07	140	MAIL

Map Graphic for S/N 2020199306:



I&E
EXHIBIT 2



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

IN REPLY PLEASE
REFER TO 811

September 22, 2021

Attn: Jim Topley
Froman Excavating
PO Box 147
Plumsteadville, PA 18949

Please Submit an Alleged Violation Report

Incident Number: 16741

811 Ticket Number(s): 20201993306

On 7/22/2020 it was reported Froman Excavating struck and damaged an unmarked PECO secondary wire leading to properties 36-59 Cricket Ave., near Cricket Terrace and East Athens Ave., Lower Merion Township, Montgomery County.

To Whom It May Concern,

We received an Alleged Violation Report indicating damage to an underground utility line occurred. With the new PA One Call Law, Act 50, which took effect on April 28, 2018, anytime damage occurs, as the Excavator, you are **REQUIRED** to submit an Alleged Violation Report through the Pennsylvania One Call website, www.pa1call.org within ten (10) business days of the alleged violation.

YOUR AVR IS DUE IMMEDIATELY!!

We are asking for detailed information about the incident. Detailed information includes pictures and videos, a very detailed summary of the incident which provides an exact recollection of the event as it unfolded, and any relevant supporting documentation. Information to include: the estimated amount of the project, who participated in the design and preconstruction meetings, the design serial number and name of the designer, what level of subsurface utility engineering was utilized, etc. Please answer all questions in the report which pertain to this incident.

The Public Utility Commission is committed to ensuring all companies comply with the provisions of Act 50. Therefore, you are advised that, if you fail to comply with the above requests this office will initiate all appropriate enforcement actions pursuant to Act 50 against the utility and its officers, agents and employees.

Please provide the requested information through the Pennsylvania One Call website. We will continue the investigation with the current information provided to us. If you have any questions, please contact me at any time.

Sincerely,

Blaire A. Prough

Blaire A. Prough
Pennsylvania Public Utility Commission (PUC)
Bureau of Investigation and Enforcement

I&E
EXHIBIT 3



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

INVOICE DATE	INVOICE NUMBER
04-22-2022	016741-004099
FISCAL YEAR	
July 1, 2021 - June 30, 2022	

FROMAN EXCAVATING
Attn: Jim Topley
PO Box 147
Plumsteadville, PA 18949

- **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

FROMAN EXCAVATING
Attn: Jim Topley
PO Box 147
Plumsteadville, PA 18949

INVOICE DATE	INVOICE NUMBER
04-22-2022	016741-004099
FISCAL YEAR	
July 1, 2021 - June 30, 2022	

PAY THIS AMOUNT WITHIN 30 DAYS

\$0.00



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

IN REPLY
PLEASE
REFER TO 811

April 22, 2022

FROMAN EXCAVATING
Attn: Jim Topley
PO Box 147
Plumsteadville, PA 18949

Re: Notification of Damage Prevention Investigator Report

To whom it may concern,

We are writing to inform you that your company, FROMAN EXCAVATING, has been identified as a stakeholder in an alleged violation report (AVR) that the Pennsylvania One Call System (POCS) provided to the Pennsylvania Public Utility Commission (Commission) for investigation. The AVR concerns 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., in connection with the following incident:

- Case No. 016741 - Line strike in LOWER MERION TWP, MONTGOMERY County on **July 22, 2020** near CRICKET AVE. The incident resulted in damage to an underground facility owned by PECO Energy. (Related POCS Ticket Nos.: 20201993306.)

A Damage Prevention Investigator (DPI) of the Commission was assigned to investigate the allegations made in the AVR and prepared a report to the Damage Prevention Committee (DPC). Enclosed is the DPI Report, which contains the DPI's findings and recommendations.

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

1. **Accept the findings and administrative penalty contained in the DPI Report by remitting 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 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 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

April 22, 2022

Investigation

Investigator name: Prough, Blaire **Incident date:** 07/22/20 11:00 AM

Case Number: 016741 **Was 911 called?** No **Did damage occur?** Yes

Site of Alleged Violation: CRICKET AVE
LOWER MERION TWP, MONTGOMERY Country
Near CRICKET TERRACE and E ATHENS AVE

What type of underground facility was damaged? Electric Distribution

Facility Owner: Dave Haverstick, PECO Energy, 680 Ridge Pike, Plymouth Meeting, PA, 19462
Submitted report? Yes **Is PA One Call member?** Yes

Contractor/Excavator: Jim Topley, FROMAN EXCAVATING, PO Box 147, Plumsteadville, PA, 18949
Submitted report? No **Is PA One Call member?** Yes

Ticket Information: 20201993306 / Routine / 07/17/20, 04:44 PM (FROMAN EXCAVATING)

Other Investigations Related by Ticket: None

Synopsis of the events that led to the damaged facility:

The incident occurred on 7/22/2020, at 36-59 Cricket Avenue, near Cricket Terrace and East Athens Avenue, in Lower Merion Township, Montgomery County, where an electric line was damaged.

PECO submitted an Alleged Violation Report (AVR) stating, "On 07/22/2020 at approximately 1113 hrs, Froman Excavating (XXXX) was using a track hoe to excavate for new granite curbing and struck secondary wire that fed commercial properties 36- 59 Cricket. Contractor had made Pa-One Call #20201993306 and ticket was good for him to dig at 7am today but area was not marked by USIC. Investigation revealed that locator was behind on tickets and was filing for extension and had closed ticket in error, never contacting contractor and never marking area within required time frame. There were no injuries." A violation of 2(5)(i)- failed to mark, stake, locate or otherwise provide the position of the facility owner's underground lines at the work site within eighteen inches horizontally from the outside wall of such line in a manner so as to enable the excavator, where appropriate, to employ prudent techniques is recommended against PECO.

One Call ticket #20201993306 was placed on 7/17/2020. Response due date was 7/21/2020 for excavation to begin on 7/22/2020 at 7:00 AM. PECO didn't respond until 7/23/2020 at 10:58 AM. A violation of ~2(5)(v)late- failed to respond to a One Call notification within the required amount of time for One Call ticket #20201993306 is recommended.

A courtesy letter was sent to the excavator on 9/22/2021 to submit an AVR and one was not submitted. A violation of 5(16)- failing to submit a report of an alleged violation to the commission through the One Call System not more than ten business days after striking or damaging a facility owner's line during excavation or demolition and 5(17)- failed to comply with all requests for information from the PUC within 30 days of the receipt of the request are recommended.

*PECO Energy is in violation of sections:

~2(5)(v)late- failed to respond to a One Call notification within the required amount of time for One Call ticket #20201993306

~2(5)(i)- failed to mark, stake, locate or otherwise provide the position of the facility owner's underground lines at the work site within eighteen inches horizontally from the outside wall of such line in a manner so as to enable the excavator, where appropriate, to employ prudent techniques

*Froman Excavating is in violation of sections:

~5(16)- failing to submit a report of an alleged violation to the commission through the One Call System not more than ten business days after striking or damaging a facility owner's line during excavation or demolition

Amount of property damage: unknown **Impact on public:** 2-10 customer were without service for less than 6 hours

Entity out of compliance PECO Energy

Compliance Violations:

Section	Status	Ticket Number	Offense	Penalty	Factor	Factor Penalty	Total Penalty
2 (5)(v)	Proposed	20201993306	Failed to respond to a routine One Call ticket within the required amount of time	3rd offense	\$750.00	0 %	\$750.00
2 (5)(i)	Proposed		Failed to locate underground lines within 18 inches horizontally of the outside wall of line	Subsequent	\$2,000.00	0 %	\$2,000.00
Totals					\$2,750.00	\$0.00	\$2,750.00

Previous Violations:

Violation Number	Non-compliant Entity	Incident Date	Accepted Date	Sections	Total Penalty
000744-000317	PECO	11/05/18 02:00 PM	07/13/21	2.5(i) 3rd Offense \$1,500.00	\$1,500.00
007629-002377	PECO	06/17/19 08:00 AM	06/08/21	2(5)(v) 1st Offense \$0.00; 2(5)(i) 2nd Offense \$0.00; 2(5)(v) 1st Offense \$0.00; 2(4) 1st Offense \$0.00; 2(4) 1st Offense \$0.00; 2(4) 1st Offense \$0.00; 2(4) 1st Offense \$0.00; 2(5)(i) 2nd Offense \$0.00	\$0.00
007880-002938	PECO	06/26/19 11:00 AM	06/08/21	2(5)(v) 2nd offense \$500.00; 2(5)(v) 2nd offense \$500.00	\$1,000.00
014977-003010	PECO	05/14/20 09:00 AM	02/09/21	2(5)(v) 1st Offense \$250.00	\$250.00
014603-003398	PECO ENERGY	05/05/20 09:00 AM	02/09/21	2(5)(i) 1st Offense \$500.00	\$500.00

Entity out of compliance FROMAN EXCAVATING

Compliance Violations:

Section	Status	Ticket Number	Offense	Penalty	Factor	Factor Penalty	Total Penalty
5 (16)	Proposed		Excavator failed to submit an Alleged Violation Report within 10 business days of striking a line	1st Offense	\$0.00	0 %	\$0.00
Recommendation: Education, zero penalty and keep the violation; first-time offender							
Totals					\$0.00	\$0.00	\$0.00

Previous Violations:

No Previous Violations

Name of Investigator: Prough, Blaire **Date completed:** 10/14/21 08:34 AM

Name of Supervisor: Locke, Sara **Date completed:** 02/19/22 10:29 AM

I&E
EXHIBIT 4



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

IN REPLY
PLEASE
REFER TO 811

July 13, 2022

FROMAN EXCAVATING
Attn: Jim Topley
PO Box 147
Plumsteadville, PA 18949

Re: Notification of Damage Prevention Committee Informal Determination (THIS IS NOT A BILL)

To whom it may concern,

We are writing to inform you that your company, FROMAN EXCAVATING, was identified as a stakeholder in one or more cases that were voted on in omnibus fashion by the Damage Prevention Committee (DPC) at a meeting on **July 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. 016741 - Line strike in LOWER MERION TWP, MONTGOMERY County on **July 22, 2020** near CRICKET AVE. The incident resulted in damage to an underground facility owned by PECO Energy. (Related POCS Ticket Nos.: 20201993306.)

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

Section	Offense	Penalty	Factor	Factor Penalty	Total Penalty	
5 (16)	Excavator failed to submit an Alleged Violation Report within 10 business days of striking a line	1st Offense	\$0.00	0 %	\$0.00	\$0.00
Recommendation: Education, zero penalty and keep the violation; first-time offender						
Total			\$0.00		\$0.00	\$0.00

Written acknowledgement of and payment for the above violation(s) have been received. In response to the DPC's informal determination(s), as set forth above, you may:

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 choose not to contest the DPC's informal determination within thirty (30) days of the date of this letter, then you need not take any further action and this matter will be marked closed. The informal determination will 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,

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

I&E
EXHIBIT 5

Test Title PUC Compliance Test #1 the for Excavator 01-28-2021(31)
 This is the test for the PUC Compliance Class. PA Act 287 of
 1974, as amended COMPLIANCE TRAINING FOR THE
 Test Description EXCAVATOR Course Number: 01-28-2021
 Author POCS Training
 Test Start Date 8/19/2022
 Test Start Time 9:16 AM
 Test End Date N/A
 Test End Time N/A
 Delivery method In-session
 Number of Questions 25
 Number of Submissions 11
 Number of Graded Submissions 11
 Limit Maximum Score 100

Grades	Pass	Pass	Pass	Fail	Fail	
	90	80		70	60	0
	100	89		79	69	59

Student name	First name	Last name	Student email address	Date Submitted	Time Submitted	Total Score	Grade	Overall Comments
Anthony Varano	Anthony	Varano	anthony.varano@phila.gov	8/19/2022	9:47 AM	80	Pass	
Paul Ricci	Paul	Ricci	ap@premiumexcavating.com	8/19/2022	10:11 AM	72	Pass	
Barry Kindt	Barry	Kindt	bkindt@seccoinc.com	8/19/2022	9:26 AM	80	Pass	
Sean Henderson	Sean	Henderson	hendersons@maronda.com	8/19/2022	9:42 AM	84	Pass	
RODERICK COOK	RODERICK	COOK	roderick.cook@phila.gov	8/19/2022	10:08 AM	68	Fail	
Shane Sobansky	Shane	Sobansky	ssobansky06@gmail.com	8/19/2022	9:43 AM	80	Pass	
Richard Perri	Richard	Perri	apcs08@yahoo.com	8/19/2022	9:51 AM	92	Pass	
Robert Lutz	Robert	Lutz	bubba2041@netscape.net	8/19/2022	9:49 AM	68	Fail	
Damian Carter	Damian	Carter	pavenplow@gmail.com	8/19/2022	9:48 AM	84	Pass	
Elizabeth Gilinger	Elizabeth	Gilinger	info@montcofence.com	8/19/2022	9:30 AM	84	Pass	
TIMOTHY HUGHES	TIMOTHY	HUGHES	directionaldrillingpa@gmail.com	8/19/2022	10:01 AM	96	Pass	
(Average)						80	Pass	

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No.: C-2023-
	:	
Froman Excavating,	:	Damage Prevention Case 016741
Respondent	:	

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).

Service by Certified First-Class U.S. Mail

Froman Excavating
Attn: Jim Topley
5660 Easton Rd
Pipersville, PA 18947



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 31, 2023