



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

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT  
BP8#3041006

February 20, 2024

**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.  
City of Pittston  
Docket No. C-2024-  
**I&E Formal Complaint (Damage Prevention)**

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](mailto:grosul@pa.gov)

GR/ac  
Enclosures

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

## 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](http://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](mailto: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 administrative penalty and other requested relief.

C. You may elect not to contest this Complaint by paying the administrative 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 administrative 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-2024-
	:	
City of Pittston,	:	
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 City of Pittston (“Pittston” or “Respondent”) alleging violations of the PA One Call Law in connection with a failure to respond to an emergency PA One Call ticket placed with the Pennsylvania One Call System due to a water leak as a result of equipment sinking into the soil in the City of Pittston, 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 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, 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](mailto:grosul@pa.gov)  
(717) 783-5243

Michael L. Swindler  
Deputy Chief Prosecutor  
[mwindler@pa.gov](mailto:mwindler@pa.gov)

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

4. Respondent is City of Pittston, with a main mailing address of 35 Broad Street, Pittston, PA 18640.

5. City of Pittston is a “facility owner,” as that term is defined in Section 176 of the PA One Call Law, 73 P.S. § 176.<sup>1</sup>

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

---

<sup>1</sup> “Facility owner” is defined as “the 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).

7. Specifically, Section 177(5)(vii) of the PA One Call Law, 73 P.S. § 177(5)(vii), requires facility owners to “respond to emergency notifications as soon as practicable following receipt of notification of such emergency. The response by the facility owner shall be consistent with the nature of the emergency information received by the facility owner.” 73 P.S. § 177(5)(vii).

8. “Emergency” is defined as “a sudden or unforeseen occurrence involving a clear and immediate danger to life, property and the environment, including, but not limited to, serious breaks or defects in a facility owner's lines.” 73 P.S. § 176.

9. Respondent, as a facility 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.

10. 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 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.

11. 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).

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

13. 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**

14. On April 22, 2022, Superior Sealcoating and Paving (“Superior Sealcoating”) was performing work on the driveway for the homeowner at 14 Green Street in Pittston, Luzerne County. I&E Exhibit 1.

15. At approximately 11:39 AM on April 22, 2022, Superior Sealcoating placed an emergency One Call Ticket with the Pennsylvania One Call System (“POCS”) for a “water leak.” I&E Exhibit 2.

16. Respondent was notified of the emergency ticket placed by Superior Sealcoating via the KARL, or Kathy Automated Response to Location, messaging system at approximately 11:42 AM on April 22, 2022.

17. Respondent did not respond to the emergency One Call Ticket. Id.

18. Pennsylvania American Water arrived at the incident location, 14 Green Street, on April 22, 2022, shortly after the emergency PA One Call Ticket had been submitted and observed a pile of “blacktop spoils<sup>2</sup>,” indicating that excavation had taken place. I&E Exhibit 3.

19. On January 25, 2023, the Damage Prevention Investigator (“DPI”) from the Damage Prevention Section of the Bureau of Investigation and Enforcement sent a letter by mail to Respondent providing a copy of the DPI’s report and informing the City of Pittston that they were in violation of a provision of the PA One Call Law. I&E Exhibit 4.

---

<sup>2</sup> Blacktop spoils are the waste material created when an asphalt surface is removed.

20. In the letter from the DPI, the Respondent was informed that they could either accept the findings and pay the assessed administrative penalty or reject the DPI report and present its case before the Damage Prevention Committee (“DPC”) by informing the DPI in writing of its rejection within thirty days of the date of the letter. Id.

21. On February 23, 2023, Respondent rejected the DPI’s report by e-mail.

22. On March 17, 2023, Respondent was informed by mail that they could present their case at the DPC meeting on April 11, 2023. I&E Exhibit 5.

23. On April 12, 2023, Respondent was informed by letter of the DPC’s informal determination adopting the DPI report and its recommended administrative penalties. I&E Exhibit 6.

24. In this letter, Pittston was informed that they could either accept the DPC’s informal determination or reject the informal determination by informing the DPC in writing within 30 days of the date of the letter.

25. Pittston was advised that if they rejected the DPC’s informal determination, the matter could be referred to the Commission’s Bureau of Investigation and Enforcement for the purpose of filing a formal complaint.

26. On May 10, 2023, Respondent rejected the DPC’s informal determination.

### **III. VIOLATIONS**

27. Paragraphs 1-26 are incorporated herein as if stated in their entirety.

#### **Count 1**

28. Respondent failed to respond to an emergency One Call Ticket submitted to the POCS.

If proven, this is a violation of Section 177(5)(vii) of the PA One Call Law, 73 P.S. § 177(5)(vii). As a facility owner, Respondent has a duty to respond to an emergency PA One Call


Ticket “as soon as practicable following receipt of notification.” Here, Respondent did not provide any response to the POCS.

The Bureau of Investigation and Enforcement’s proposed administrative penalty for this violation is \$2,000.

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

- (1) Find the City of Pittston to be in violation of the PA One Call Law at 73 P.S. §§ 177(5)(vii);
- (2) Impose an administrative penalty upon the City of Pittston in the amount of \$2,000;
- (3) Order the City of Pittston 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](mailto:grosul@pa.gov)

Date: February 20, 2024

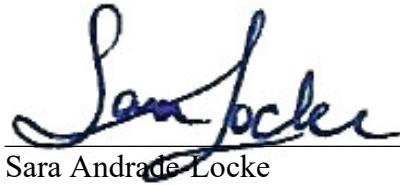
**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2024-
	:	
City of Pittston,	:	
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: February 20, 2024



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** AVR2022AUG120012

**AVR Version** 1

**First Name** PATRICK **Last Name** POHODA

**Company Name** SUPERIOR SEAL COATING AND PAVING

**Address** 16 MITCHELL ST

**City** PITTSTON

**State** PA

**Zip Code** 18640

**Email** pat.superiorsealcoating@gmail.com **Phone** 570-362-4247

**Ext**

## Role

**Submitter Role(s) (?)**

- Facility Owner
- Excavator
- Locator
- Other
- Designer
- Project Owner
- Enforcement Agency

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**

**When did the alleged violation occur? (?)** 04/22/2022

12:00:00 PM

Was the One Call System notified?  Yes  No

Original Serial Number

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

20221121805

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 LUZERNE  
Municipality PITTSTON CITY  
Ward 0  
Work Site 14 GREEN ST  
Nearest Intersection UNION ST  
Second Intersection ORMSBY ALLEY

Geolocation (?)

## Affected Facility Information



Primary Right of Way Type

Public Right of Way Type

Private Right of Way Type

Affected Operation Unknown/Other

Facility Subtype Affected Other

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 (?) 04/22/2022

12:00:00 PM

Excavation Activity DRIVEWAY WORK

Excavator Company Name Superior Sealcoating & Paving

Contact First Name Patrick Last Name Pohoda

Address 16 Mitchell Street

City Jenkins Twp

State pa

Zip 18640

Email Pat.superiorealcoating@gmail.com Phone 570-362-4247

Marked in White  Yes  No  Unknown

Method of Excavation PAVING

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

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 Less than \$400,000

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?  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? \$0

**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

The reason for the emergency PA one call for 14 Green Street, Pittston, pa 18640 was due to the ground sinking on the arrival of our dump truck. There were no utilities struck or damaged. The dump truck began to back up the entrance of the driveway and the back axle was sinking into the ground. The initial job was only a resurface until the driveway began to sink and crack.

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

Attachments

Attach pictures and additional documents

Submit Date

08/12/2022

## Compliance Update

---

Research Result

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

## Additional Tickets Found

---

Additional Serial Numbers

20221121805

Ticket Attachment

Comments

**I&E**  
**Exhibit 2**

CDC 00000 POCS MM/DD/YY TT:TT:TT 20221121805-000 NEW XCAV EMER

=====  
Serial Number--[20221121805]-[000] Channel#--[1134A999][0350][2019-08]  
Message Type--[NEW][EXCAVATION][EMERGENCY]

County--[LUZERNE] Municipality--[PITTSTON CITY]  
Work Site--[14 GREEN ST]  
Nearest Intersection--[UNION ST]  
Second Intersection--[ORMSBY ALLEY]  
At Intersection--[N] Between Intersections--[Y] Site Marked in White--[Y]  
Subdivision--[ ]  
Location Information--[ ]  
Caller Lat/Lon--[ ]  
Mapped Type--[P] Mapped Lat/Lon--[ ]  
[41.341005/-75.783045,41.340854/-75.783195,41.340587/-75.782705,  
41.340716/-75.782534]  
Attachments--[http://www.pa811.org/attachments/20221121805]  
Type of Work--[EXCAVATION FOR WTR LEAK] Depth--[ ]  
Extent of Excavation--[ ] Method of Excavation--[POWER EQUIP]  
Equip Type--[EXCAVATOR]  
Street--[ ] Sidewalk--[ ] Pub Prop--[ ] Pvt Prop--[X] Other--[ ]  
Private Front--[X] Rear--[ ] Left--[ ] Right--[X]

Lawful Start Dates--[ ] thru [ ] Response Due Date--[22-Apr-22]  
Scheduled Excavation Date--[22-Apr-22] Dig Time--[1145] Duration--[ ]

Caller--[KAREN CLISHAM]  
Caller Phone--[570-655-3516]  
Excavator--[SUPERIOR SEAL COATING AND PAVING]  
Address--[16 MITCHELL ST]  
City--[PITTSTON] State--[PA] Zip--[18640]  
FAX--[ ] Caller Type--[B]  
Email--[pat.superiorsealcoating@gmail.com]  
Work For--[CRAIG DAVIS]  
Onsite Contact--[PATRICK POHODA]  
Onsite Contact Phone--[570-362-4247]  
Best Time to Call--[ANYTIME]  
Onsite Contact Email--[pat.superiorsealcoating@gmail.com]

Prepared--[22-Apr-22] at [1139] by [ANAIS JOHNSON]  
Remarks--[ ]

HI 0 HI =VERIZON WB STN PST0 PST=PITTSTON CITY PW 0 PW =PPL ELEC CNTRL  
VR 0 VR =UGI PITTSTON WW 0 WW =PAWC WILKES-BAR

Serial Number--[20221121805]-[000]  
=====  
Copyright (c) 2022 by Pennsylvania One Call System, Inc. =====

RESPONSES for S/N: 20221121805:

Ver	CDC	Name	Response	Time	Respondent
0	WW	PENNSYLVANIA AMERICAN WATER WILKES BARRE	WW-FIELD MARKED	4/22/2022 12:33:33 PM	MPO-WEBSVC
0	VR	UGI UTL PITTSTON	VR-FIELD MARKED	4/22/2022 12:03:05 PM	AAA-WEBSVC
0	PW	PPL ELECTRIC UTILITIES CORPORATION	PW-CLEAR. NO FACILITIES OR FACIL NOT INVOLVED	4/22/2022 12:24:19 PM	CLS-WEBSVC
0	PST	PITTSTON CITY OF	PST-NO RESPONSE	4/22/2022 1:42:54 PM	Auto-KARL
0	HI	VERIZON PENNSYLVANIA LLC	HI-CLEAR. NO FACILITIES OR FACIL NOT INVOLVED	4/22/2022 11:43:03 AM	PRA-WEBSVC

DELIVERIES for S/N: 20221121805:

Ver	CDC	Name	To	Time	Seq	Type
0	WW	PENNSYLVANIA AMERICAN WATER WILKES BARRE	WW	4/22/2022 11:40:04 AM	46	MAIL
0	VR	UGI UTL PITSTON	VR	4/22/2022 11:40:04 AM	8	MAIL
0	PW	PPL ELECTRIC UTILITIES CORPORATION	PW	4/22/2022 11:40:04 AM	27	MAIL
0	PST	PITSTON CITY OF	PST	4/22/2022 11:40:04 AM	2	MAIL
0	HI	VERIZON PENNSYLVANIA LLC	HI	4/22/2022 11:40:03 AM	51	MAIL

NOTIFICATIONS for S/N: 20221121805:

Ver	CDC	To	Dlvr	Show	Place+	Rule+	Renot+	InAct-	Map-	Rule-	OOG-	Renot-	Forced+
0	WW	WW	1	1	1	0	0	0	0	0	0	0	0
0	VR	VR	1	1	1	0	0	0	0	0	0	0	0
0	TKTCFM	TKTCFM	1	1	0	0	0	0	0	0	0	0	0
0	TDX		0	0	1	0	0	0	1	0	0	0	0
0	PW	PW	1	1	1	0	0	0	0	0	0	0	0
0	PTO		0	0	1	0	0	0	1	0	0	0	0
0	PST	PST	1	1	1	0	0	0	0	0	0	0	0
0	PSE		0	0	1	0	0	0	1	0	0	0	0
0	JTT		0	0	1	0	0	0	1	0	0	0	0
0	ION		0	0	1	0	0	0	1	0	0	0	0
0	IA		0	0	1	0	0	0	1	0	0	0	0
0	HI	HI	1	1	1	0	0	0	0	0	0	0	0
0	GJ		0	0	1	0	0	0	1	0	0	0	0
0	FS		0	0	1	0	0	0	1	0	0	0	0
0	ET		0	0	1	0	0	0	1	0	0	0	0
0	AQ1		0	0	1	0	0	0	1	0	0	0	0

ATTACHMENT for S/N: 20221121805 (20221121805-0.gif):



**I&E**  
**Exhibit 3**

# Alleged Violation Report

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

**AVR Number** AVR2022MAY040004

**AVR Version** 1

**First Name** ROSEMARY **Last Name** NARDONE

**Company Name** PENNSYLVANIA AMERICAN WATER

**Address** 2699 STAFFORD AVE

**City** SCRANTON

**State** PA

**Zip Code** 18505

**Email** Rosemary.Nardone@amw  
ater.com **Phone** 5703510157

**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** Began excavation work before the lawful start day (on ticket) §5(2.1) and §5(5)

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

**Reason** Failed to ensure accurate information on the work site to the One Call System §5(19)

**When did the alleged violation occur?** (?) 04/22/2022

12:14:00 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.

20221121805

**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** LUZERNE

**Municipality** PITTSTON CITY

**Ward** 0

**Work Site** 14 GREEN ST

**Nearest Intersection** UNION ST

**Second Intersection** ORMSBY ALLEY

**Geolocation** (?)

## Affected Facility Information

**Primary Right of Way Type**

**Public Right of Way Type**

**Private Right of Way Type**

**Affected Operation** Water

**Facility Subtype Affected** Service/Drop/Lateral

**Facility Owner Company Name** Pa American Water

**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 (?) 04/22/2022

Excavation Activity

Excavator Company Name Superior Seal Coating and Paving

Contact First Name Last Name

Address 16 Mitchell Street

City Pttston

State Pa

Zip 18640

Email Phone 570-362-4247

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/Occupant  
(individual)

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 Craig Davis - Homeowner

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?

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  Records  Visual  Exposed

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

**Additional Locate Comments**

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**

Upon arriving at 14 Green Street in Pittston to respond to an emergency ticket for a water leak the contractor was not present and no equipment was present (paver was in driveway behind the house)- however excavation did take place, a pile of blacktop spoils were piled in the road and coned off (note attached photos). PAWC Locator spoke with the homeowner who questioned locator, asking if there was a problem, locator explained he was there responding to an emergency one call for a water leak. Homeowner stated that there was no leak, that his contractor was replacing the driveway.

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

**Attachments**

Attach pictures and additional documents

**Submit Date**

05/04/2022

## Compliance Update

---

**Research Result**

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

## Additional Tickets Found

---

**Additional Serial Numbers**

---

**Ticket Attachment**

**Comments**

**I&E**  
**Exhibit 4**



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

City of Pittston  
 Attn: Mark Buckley  
 35 Broad St  
 Pittston, PA 18640

INVOICE DATE	INVOICE NUMBER
01-25-2023	030419-005100
FISCAL YEAR	
July 1, 2022 - June 30, 2023	

- **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

City of Pittston  
 Attn: Mark Buckley  
 35 Broad St  
 Pittston, PA 18640

INVOICE DATE	INVOICE NUMBER
01-25-2023	030419-005100
FISCAL YEAR	
July 1, 2022 - June 30, 2023	

**PAY THIS AMOUNT WITHIN 30 DAYS**

**\$1,000.00**

Attn: Damage Prevention Section



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

IN REPLY  
PLEASE  
REFER TO 811

January 25, 2023

City of Pittston  
Attn: Mark Buckley  
35 Broad St  
Pittston, PA 18640

**Re: Notification of Damage Prevention Investigator Report**

To whom it may concern,

We are writing to inform you that your company, City of Pittston, 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. 030419 - Alleged violations that took place in PITTSTON CITY, LUZERNE County on **April 22, 2022** near 14 GREEN ST. (Related POCS Ticket Nos.: 20221121805.)

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](mailto: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](mailto: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

January 25, 2023

## Investigation

---

**Investigator name:** Cooper, John **Incident date:** 04/22/22 12:14 PM

**Case Number:** 030419 **Was 911 called?** No **Did damage occur?** No

**Site of Alleged Violation:** 14 GREEN ST  
PITTSTON CITY, LUZERNE Country  
Near UNION ST and ORMSBY ALLEY

**What type of underground facility was damaged?** Water Service/Drop/Lateral

**Facility Owner:** ROSEMARY NARDONE, PENNSYLVANIA AMERICAN WATER, 2699 STAFFORD AVE, SCRANTON, PA, 18505  
**Submitted report?** Yes **Is PA One Call member?** Yes

**Contractor/Excavator:** Superior Seal Coating and Paving, 16 Mitchell Street, Pittston, PA, 18640  
**Submitted report?** Yes **Is PA One Call member?** Yes

**Project Owner:** Craig Davis, Homeowner  
**Submitted report?** Yes **Is PA One Call member?** Unknown

**Other:** Mark Buckley, City of Pittston, 35 Broad St, Pittston, PA, 18640  
**Submitted report?** No **Is PA One Call member?** Yes

**Ticket Information:** 20221121805 / Emergency / 04/22/22, 11:39 AM (Superior Seal Coating and Paving)

**Other Investigations Related by Ticket:** None

### Synopsis of the events that led to the damaged facility:

Incident occurred on 4/22/2022 at 12:14pm at 14 Green Street, Pittston, Luzerne County.

Pennsylvania American Water Company (PAWC)'s AVR states, "Upon arriving at 14 Green Street in Pittston to respond to an emergency ticket for a water leak the contractor was not present and no equipment was present (paver was in driveway behind the house)- however excavation did take place, a pile of blacktop spoils were piled in the road and coned off (note attached photos). PAWC Locator spoke with the homeowner who questioned locator, asking if there was a problem, locator explained he was there responding to an emergency one call for a water leak. Homeowner stated that there was no leak, that his contractor was replacing the driveway."

Emailed PAWC for images that were mentioned in the AVR on 8/5/22. Mailed and emailed AVR request to Superior Seal Coating and Paving. Mailed the Homeowner on 8/5/22.

SSCP emailed on 8/5/22 to state that there was no line strike. Called PA1call after back axle of dump truck sank into ground.

Homeowner called DPI on 8/10/22 asking how to file an AVR. DPI emailed PA1call instructional video from Youtube. Homeowner claims a line was under the driveway that they believe was abandoned.

Homeowner's AVR states, "During the demolition and reconstruction of our driveway. The excavator discovered what appeared to be an abandoned water line underneath the old driveway. It was not close to our existing water line The line did not connect to our house and did not appear to be connected to anything. It may have been for the previous house on the property that was demolished prior to 1988 when our house was built. We purchased the home in 1989."

Superior Seal Coating and Paving's AVR states, "The reason for the emergency PA one call for 14 Green Street, Pittston, pa 18640 was due to the ground sinking on the arrival of our dump truck. There were no utilities struck or damaged. The dump truck began to back up the entrance of the driveway and the back axle was sinking into the ground. The initial job was only a resurface until the driveway began to sink and crack."

### Violations:

Superior Seal Coating and Paving

Section 5(2.1) - Failed to submit a Location request to One Call within the correct timeframe. Education is required.

Section 5(9) - Emergency notification does not meet the requirements of "emergency" as defined in Section 1. Education is required.

City of Pittston  
2(5)(vii) - Failed to respond to an emergency ticket. 20221121805. Education is required.

**Amount of property damage:** None **Impact on public:** None

**Entity out of compliance** Superior Seal Coating and Paving

Compliance Violations:

Section	Status	Ticket Number	Offense	Penalty	Factor	Factor Penalty	Total Penalty
5 (2.1)	Proposed		1st Offense	\$1,000.00	0 %	\$0.00	\$1,000.00
<b>Recommendation:</b> Education is required.							
5 (9)	Proposed	20221121805	1st Offense	\$1,000.00	0 %	\$0.00	\$1,000.00
<b>Recommendation:</b> Education is required.							
<b>Totals</b>				<b>\$2,000.00</b>		<b>\$0.00</b>	<b>\$2,000.00</b>

Previous Violations:

No Previous Violations

**Entity out of compliance** City of Pittston

Compliance Violations:

Section	Status	Ticket Number	Offense	Penalty	Factor	Factor Penalty	Total Penalty
2 (5)(vii)	Proposed	20221121805	1st Offense	\$1,000.00	0 %	\$0.00	\$1,000.00
<b>Recommendation:</b> Education is required.							
<b>Totals</b>				<b>\$1,000.00</b>		<b>\$0.00</b>	<b>\$1,000.00</b>

Previous Violations:

Violation Number	Non-compliant Entity	Incident Date	Accepted Date	Sections	Total Penalty
005029-002247	Pittston City	01/27/19 05:00 AM	11/12/19	6.1(7) 1st Offense	\$250.00

**Name of Investigator:** Cooper, John **Date completed:** 10/05/22 08:22 AM

**Name of Supervisor:** Locke, Sara **Date completed:** 11/29/22 11:00 AM

**I&E**  
**Exhibit 5**



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

March 17, 2023

City of Pittston  
 Attn: Mark Buckley  
 35 Broad St  
 Pittston, PA 18640

**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. 030419. This case involves alleged violations that took place in PITTSTON CITY, LUZERNE County on **April 22, 2022** near 14 GREEN ST.

This case has been scheduled for discussion at a hybrid, DPC Meeting on **April 11, 2023 at 09:00 AM**. To attend the DPC Virtual MS Teams Meeting please access the following link [Damage Prevention Committee | PA PUC](#), click on > DPC Meetings > and choose the meeting link with the date of the meeting you are scheduled to attend. To attend the meeting in person please go to Hearing Room 1 of the Keystone Building in Harrisburg, which is located at 400 North Street, Harrisburg, PA 17120.

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)(vii)	Failed to respond to an emergency notification as soon as practicable following notification (20221121805)	1st Offense

At the meeting, the DPC will discuss and determine whether to accept the DPI's recommendation regarding this case. City of Pittston may provide representatives of its choosing to present its position before the DPC. A 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](mailto: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**

City of Pittston  
 Attn: Mark Buckley  
 35 Broad St  
 Pittston, PA 18640

INVOICE DATE	INVOICE NUMBER
01-25-2023	030419-005100
FISCAL YEAR	
July 1, 2022 - June 30, 2023	

- **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

City of Pittston  
 Attn: Mark Buckley  
 35 Broad St  
 Pittston, PA 18640

INVOICE DATE	INVOICE NUMBER
01-25-2023	030419-005100
FISCAL YEAR	
July 1, 2022 - June 30, 2023	

**PAY THIS AMOUNT WITHIN 30 DAYS**

**\$1,000.00**

Attn: Damage Prevention Section



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, 2023

City of Pittston  
Attn: Mark Buckley  
35 Broad St  
Pittston, PA 18640

**Re: Notification of Damage Prevention Committee Informal Determination**

To whom it may concern,

We are writing to inform you that City of Pittston 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 **March 14, 2023** 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. 030419 - Alleged violations that took place in PITTSTON CITY, LUZERNE County on **April 22, 2022** near 14 GREEN ST. (Related PA One Call Ticket Nos.: 20221121805.)

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

Section	Offense	Penalty	Factor	Factor Penalty	Total Penalty	
2 (5)(vii)	Failed to respond to an emergency notification as soon as practicable following notification (20221121805)	1st Offense	\$1,000.00	0 %	\$0.00	\$1,000.00
<b>Recommendation:</b> Education is required.						
<b>Total</b>			<b>\$1,000.00</b>		<b>\$0.00</b>	<b>\$1,000.00</b>

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](mailto: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](mailto:damageprevention@pa.gov)

Sincerely,

A handwritten signature in black ink, appearing to read 'TCS', written in a cursive style.

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-2024-
	:	
City of Pittston,	:	
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**

City of Pittston  
35 Broad Street  
Pittston, PA 18640

Maura Armezzani Tunis, Esq.  
Saporito, Falcone & Watt  
48 South Main Street, Suite 300  
Pittston, PA 18640



\_\_\_\_\_  
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](mailto:grosul@pa.gov)

Dated: February 20, 2024