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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT
3046892

March 27, 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.
Landmark Fence
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,

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

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.

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 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-
	:	
Landmark Fence, 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 Landmark Fence ("Landmark" or "Respondent") alleging violations of the PA One Call Law in connection with a strike on a 1-inch gas service line belonging to Columbia Gas of Pennsylvania ("Columbia Gas") while excavating on April 5, 2023, at 217 Victor Street, Gettysburg Borough, Adams County, Pennsylvania. 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*, excavators, 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
mswindler@pa.gov

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

4. Respondent is Landmark Fence, with a main mailing address of 11631 Country Club Ct., Waynesboro, PA 17268.

5. Landmark is an "excavator," as that term is defined in Section 176 of the PA One Call Law, 73 P.S. § 176.[1]

[1] "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 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.

6. "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.

7. Section 180 of the PA One Call Law, 73 P.S. § 180, imposes duties on excavators.

8. Specifically, Section 180(2.1) of the PA One Call Law, 73 P.S. § 180(2.1), requires excavators to "request the location and type of facility owner lines at each work site by notifying the facility owner through the One Call System. Notification shall be not less than three nor more than ten business days in advance of beginning excavation or demolition work." 73 P.S. § 180(2.1).

9. Section 180(6)(i) of the PA One Call Law, 73 P.S. § 180(6)(i), requires excavators to "[p]lan the excavation or demolition work to avoid damage to or minimize interference with a facility owner's facilities in the construction area. Excavation or demolition work which requires temporary or permanent interruption of a facility owner's service shall be coordinated with the affected facility owner in all cases." 73 P.S. § 180(6)(i).

10. Section 184 of the PA One Call Law requires that stakeholders "shall use their best efforts to comply with the Common Ground Alliance best practices." 73 P.S. § 184.

11. 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.

12. 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 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.

13. 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).

14. 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).

15. 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

16. On April 5, 2023, Landmark was using a powered auger to install fence posts and fencing on the property of 217 Victor Street in Gettysburg Borough, Adams County, Pennsylvania.

17. Landmark did not place a valid, routine One Call ticket with the Pennsylvania One Call System ("POCS") prior to engaging in its excavation work. As a result, facility owners were not afforded an opportunity to locate and mark the locations of their underground facilities prior to excavation.

18. While excavating, Landmark struck a 1-inch plastic gas service line belonging to Columbia Gas. I&E Exhibit 1.

19. Landmark immediately called 911 as well as Columbia Gas.

20. Columbia Gas responded to the scene and repaired the damaged line.

21. A photograph taken by Columbia Gas looking down an augured hole for a fence post shows the line damage as well as uniform gauges in the dirt and a cylinder-shaped hole, indicating that a powered auger was used. I&E Exhibit 2.

22. After Columbia Gas had repaired the damaged line, Landmark placed an emergency ticket with the POCS. I&E Exhibit 3.

23. Because 911 had already been notified, and because Columbia Gas had already been notified, responded to the scene, and repaired the damaged line, there was no longer an emergency, and an emergency ticket was no longer warranted by the situation.

24. On June 1, 2023, the homeowner filed an Alleged Violation Report ("AVR") with the POCS, stating that Landmark had been using a "power tool" to install fencing on the property at 217 Victor Street and that Landmark "didn't mark lines prior to work." I&E Exhibit 4.

25. On November 22, 2023, a copy of the report prepared by the Damage Prevention Investigator ("DPI") from the Commission's Bureau of Investigation and Enforcement, Damage Prevention Section, was mailed to Landmark informing them that they were in violation of the PA One Call Law by failing to plan the excavation or demolition work to avoid damage to or interference with a facility owner's facilities in the construction area, failing to submit a location request to One Call within the correct timeframe, and submitting an emergency locate request when the situation did not meet the definition of an "emergency." The letter further informed Landmark that they could either accept the findings in the DPI's report or reject them and present their case to the Damage

Prevention Committee ("DPC"). I&E Exhibit 5.

26. On November 28, 2023, Landmark rejected the findings in the DPI's report and requested to present its case before the DPC. I&E Exhibit 6.

27. On January 9, 2024, a notice of the DPC meeting was sent to Landmark, informing Respondent that it could present its case for discussion at the February 13, 2024, DPC meeting. I&E Exhibit 7.

28. Landmark presented its case to the DPC at the February 13, 2024, hearing, where its case was discussed and voted upon by the DPC.

29. On February 15, 2024, a copy of the DPC's Informal Determination accepting the DPI's report and proposed penalty was mailed to Landmark, informing Respondent that it could either accept the DPC's Informal Determination or reject it in writing within thirty (30) days of the date of the notification letter, 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 8.

30. On February 16, 2024, Respondent informed the DPI via e-mail that it would reject the DPC's Informal Determination. I&E Exhibit 9.

III. VIOLATIONS

31. Paragraphs 1-30 are incorporated herein as if stated in their entirety.

Count 1

32. Respondent failed to place a valid, routine locate request ticket through the POCS prior to excavating using a powered auger to drill fence posts on the property of 217 Victor Street in Gettysburg Borough.

If proven, this is a violation of Section 180(2.1) of the PA One Call Law, 73 P.S. § 180(2.1). As an excavator, Respondent was required to place a routine locate request ticket through POCS between 3 and 10 days before starting excavation or demolition.

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

Count 2

33. Respondent failed to plan their excavation work to avoid damage to or minimize interference with a facility owner's lines.

If proven, this is a violation of Section 180(6)(i) of the PA One Call Law, 73 P.S. § 180(6)(i). As an excavator, Respondent was required to plan its excavation to avoid damaging and minimize interference with the 1-inch gas service line belonging to Columbia Gas. Respondent failed to place a valid routine locate ticket through POCS. Because no such ticket was submitted to POCS, facility owners with facilities in the area — including Columbia Gas — did not have an opportunity to locate and mark their facilities in the area where the excavation was to take place. By all appearances, Respondent showed up at the work site and began augering the ground with a powered auger without regard to how such excavation work could affect underground utility lines. As a result, Respondent severed a gas service line, causing a gas leak and rendering a customer without gas for a period of 1 to 6 hours.

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

Count 3

34. Respondent failed to use best efforts to comply with the Common Ground Alliance ("CGA") Best Practices when it placed an emergency ticket with the POCS well after the incident had occurred and after the 1-inch gas service line had been repaired.

If proven, this is a violation of Section 184 of the PA One Call Law, 73 P.S. § 184. As an excavator, Respondent is required to use best efforts to comply with the CGA Best Practices. Specifically, Best Practice 5-26 Emergency Excavation[2] allows for excavation immediately in emergency situations, absolving excavators of the 3-day waiting period for routine excavation locate requests.

Here, Respondent placed an emergency locate request with the POCS ***after*** the 1-inch gas service line had been repaired and the emergency had passed. At the time the emergency locate request was placed by Respondent, there was no emergency. By placing an emergency locate request, Respondent unnecessarily required facility owners with facilities in the area to respond immediately to the locate request.

By placing an emergency locate request ticket with the POCS when there was in fact no emergency, Respondent failed to use its best efforts to comply with CGA Best Practice 5-26 and thereby violated Section 184 of the PA One Call Law.

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

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[2] CGA Best Practice 5-26 provides that "[i]n the case of an emergency excavation, maintenance or repairs may be made immediately, provided that the excavator notifies the 811 center and facility owner/operator as soon as reasonably possible. This includes situations that involve danger to life, health or property, or that require immediate correction in order to continue the operation of or ensure the continuity of public utility service or public transportation." CGA Best Practices Manual 19.0, Best Practice § 5-26 (April 2023).

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

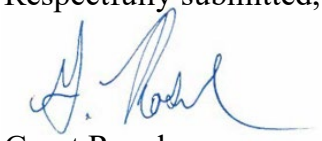
(1) Find Landmark Fence to be in violation of the PA One Call Law at 73 P.S. §§ 180(2.1), 180(6)(i), and 184;

(2) Impose a cumulative administrative penalty upon Landmark Fence in the amount of $4,000; and

(3) Order Respondent to attend an educational program for excavators through the DPC and provide proof of compliance to the Commission within 90 days of the entry of a Final Order; 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
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400 North Street
Harrisburg, PA 17120
(717) 783-5243
grosul@pa.gov

Date: March 27, 2024

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2024-
	:	
Landmark Fence,	:	
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: March 27, 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	AVR2023APR170011		
AVR Version	1		
First Name	Alicia	**Last Name**	Breighner
Company Name	Columbia Gas of PA - East		
Address	1600 Colony Rd		
City	York		
State	PA		
Zip Code	17408		
Email	abreighner@nisource.com	**Phone**	717-825-9580
Ext			

Role

Submitter Role(s) (?)

- [ ] Facility Owner
- [ ] Excavator
- [x] 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 Failed to request the location and type of facility owner through the One Call System in advance of beginning excavation or demolition work §5(2.1)

When did the alleged violation occur? (?) 04/05/2023 09:40:00 AM

Was the One Call System notified? ○ Yes ◉ No

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

Related Damage Serial Number, if applicable

Other Related Serial Numbers (?)

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

Reason for Exemption

Event Information

County ADAMS

Municipality GETTYSBURG BORO

Ward

Work Site 217 VICTOR ST

Nearest Intersection PINE ST

Second Intersection N FOURTH ST

Geolocation (?)

Affected Facility Information

Primary Right of Way Type Private

Public Right of Way Type

Private Right of Way Type Land Owner

Affected Operation Gas

Facility Subtype Affected Service/Drop/Lateral

Facility Owner Company Name Homeowner

Contact First Name **Last Name**

Address

City

State

Zip

Email **Phone**

Joint Trench?	○ Yes ◉ No ○ Unknown
Involve Cross Bore?	○ Yes ◉ No ○ Unknown
Measured Depth from Grade	18" - 36" / 46 - 91 cm
Exact Measured Depth from Grade	Enter the inches or centimeters with number and measurement used

Work Information

Start Date of Excavation (?)	04/05/2023 09:00:00 AM		
Excavation Activity	FENCING		
Excavator Company Name	Landmark Fence		
Contact First Name	Nick	**Last Name**	Enciu
Address	11631 Country Club Ct		
City	Waynesboro		
State	PA		
Zip	17268		
Email	landmarkcustomfence@gmail.com	**Phone**	240-707-0943
Marked in White	○ Yes ◉ No ○ Unknown		
Method of Excavation	AUGERING		
Equipment Used	What Equipment was used for excavation or demolition when the event occurred? AUGER		
Type of Excavator	What is the type of excavator for whom the work was being done when the event occurred? Other		
Did Excavator incur down time?	○ Yes ○ No ○ Unknown		
How much down time?			
Estimated cost of down time			
Was a response posted to the One Call System?	○ Yes ○ No ○ Unknown		
Was the design serial number on the plans/bid documents?	○ Yes ○ No ○ Unknown		
Were the lines shown on the plans/bid documents?	○ Yes ○ No ○ Unknown		
What level of subsurface utility engineering was utilized?			
Estimated cost of the entire project			

What was the length of the entire project?

Project Owner Company Name

Contact First Name

Last Name

Address

City

State

Zip

Email

Phone

Event Impact

Did Violation result in underground damage or near miss event?	Damage
OSHA Report Filed?	○ Yes ◉ No
OSHA Report Number	
Was 911 called?	◉ Yes ○ No
Name of 911 Caller	Nick Enciu
Fire Response	◉ Yes ○ No
Police Response	○ Yes ◉ No
Did the incident cause any injuries?	☐ Yes
Number of Injuries (?)	
Did the incident cause any deaths?	☐ Yes
Number of Deaths	
Was there an evacuation?	○ Yes ◉ No
Number of people evacuated?	
Traffic Stopped?	○ Yes ○ No
Service Interrupted?	◉ Yes ○ No
Duration of Service Interruption?	1 - < 6 hrs
Exact Value of Service Interruption	
Approximately how many customers were affected?	1
Exact Number of Customers Affected	
Cost of Damaged Line Repair?	Unknown

Exact Cost of Damaged Line Repair

Was other property damaged? ○ Yes ◉ No

What other property was damaged?

Cost of Other Property Repair

Locator/Locate Information

Who was the facility line locator?

Locator Company

Contact First Name **Last Name**

Address

City

State

Zip

Email **Phone**

Was the line marked? ○ Accurately ○ Inaccurately/Incompletely ◉ Not Marked ○ Unknown

Were facilities marked according to APWA/CGA temporary marking color code (ANSI standard Z535.1)? ○ Yes ○ No ○ Unknown

What types of marks were present?
- ☐ Paint
- ☐ Flags
- ☐ Stakes
- ☐ Other

Were offset markings used? ○ Yes ○ No ○ Unknown

Condition of Marks

Was the line marked by the response due date or within the agreed upon locate schedule? (?) ○ Yes ◉ No ○ Unknown

Reason for Late Locate No One Call

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.) Gas meter visible on left side of the house

What method(s) were used to locate the facility?

- [ ] Electronic
- [ ] Records
- [ ] Visual
- [ ] Exposed

Did the excavator request payment under PennDOT Form 408 specifications for extra work performed on a force account basis?

○ Yes ○ No

Additional Locate Comments

No One Call. This damage was to a customer-owned 1" plastic gas service. This line is not owned by Columbia Gas.

If this incident involved any locating/marking 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

Landmark Fence hit a customer-owned 1" plastic gas service while auguring for a new fence install. 911 was immediately contacted. Columbia Gas responded immediately to make the area safe and marked out all the gas facilities in the work area. After the damage, Landmark Fence placed emergency ticket # 20230951072 to complete their fence install.

The local Damage Prevention Specialist (DPS) followed up with Landmark Fence regarding the customer-owned gas service damage and the PA One Call law. The DPS discussed in great detail the law, differences between MD and PA, the PUC and enforcement, and other damage root causes in the past. Landmark was very receptive to the conversation and training and agreed moving forward they will have a process to complete all of their PA One Call tickets.

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

Attachments

Auger damage at 217 Victor Street.JPG 5.56MB

Closeup of Auger damage 217 Victor.JPG 3.51MB

Attach pictures and additional documents

Submit Date

04/17/2023

Compliance Update

Research Result

- [ ] Listed tickets found
- [x] Additional tickets found
- [ ] No tickets found

Additional Tickets Found

Additional Serial Numbers

20230951072

Ticket Attachment

Comments

Landmark Fence has placed notification with PA One Call in the past.

I&E
Exhibit 2

I&E
Exhibit 3

```
CDC    00000 POCS MM/DD/YY TT:TT:TT 20230951072-000 NEW  XCAV EMER

============PENNSYLVANIA UNDERGROUND UTILITY LINE PROTECTION REQUEST============
Serial Number--[20230951072]-[000] Channel#--[0940AWEB][0412][2019-08]
Message Type--[NEW][EXCAVATION][EMERGENCY]

County--[ADAMS]           Municipality--[GETTYSBURG BORO]
Work Site--[217 VICTOR ST]
     Nearest Intersection--[PINE ST]
     Second Intersection--[N FOURTH ST]
     At Intersection--[N] Between Intersections--[N] Site Marked in White--[N]
     Subdivision--[]
Location Information--
     [FRONT OF HOME]
     Caller Lat/Lon--[]
Mapped Type--[C] Mapped Lat/Lon--
     []
     Attachments--[http://www.pa811.org/attachments/20230951072]
Type of Work--[INSTALL FENCE]                                Depth--[36]
Extent of Excavation--[238]             Method of Excavation--[AUGERING]
Equip Type--[2MAN AUGER. POST HOLE DIGGER]
Street--[ ] Sidewalk--[ ] Pub Prop--[ ] Pvt Prop--[X] Other--[]
Private Front--[X] Rear--[ ] Left--[X] Right--[X]

Lawful Start Dates--[         ] thru [         ] Response Due Date--[05-Apr-23]
  Scheduled Excavation Date--[05-Apr-23] Dig Time--[1000] Duration--[5 HOURS]

Caller--[NICK ENCIU]
Caller Phone--[240-707-0943]
Excavator--[LANDMARK FENCE]
Address--[11631 COUNTRY CLUB CT]
City--[WAYNESBORO]                                State--[PA] Zip--[17268-9290]
FAX--[]                          Caller Type--[B]
Email--[LANDMARKCUSTOMFENCE@GMAIL.COM]
Work For--[TESSA WALTER]
Onsite Contact--[NICK ENCIU]
Onsite Contact Phone--[240-707-0943]
Best Time to Call--[ANYTIME]
Onsite Contact Email--[LANDMARKCUSTOMFENCE@GMAIL.COM]

Prepared--[05-Apr-23] at [0946] by [NICKENCIU]
Remarks--
     []

CY 0  CY =COL GAS YORK     GET0  GET=GETTYSBURG B     GT10  GT1=GETTYSBURG MA
ME 0  ME =MET ED

Serial Number--[20230951072]-[000]
========== Copyright (c) 2023 by Pennsylvania One Call System, Inc. ==========
```

RESPONSES for S/N: 20230951072:

Ver	CDC	Name	Response	Time	Respondent

DELIVERIES for S/N: 20230951072:

Ver	CDC	Name	To	Time	Seq	Type
0	WEBCFM	WEB CONFIRMATION QUEUE	WEBCFM	4/5/2023 9:47:04 AM	0	MAIL
0	ME	METROPOLITAN EDISON CO/FIRSTENERGY	ME	4/5/2023 9:47:02 AM	136	MAIL
0	GET	GETTYSBURG BOROUGH	GET	4/5/2023 9:47:04 AM	1	MAIL
0	GT1	GETTYSBURG MUNICIPAL AUTHORITY	GT1	4/5/2023 9:47:03 AM	3	MAIL
0	CY	COLUMBIA GAS OF PA INC YORK	CY	4/5/2023 9:47:02 AM	38	MAIL

NOTIFICATIONS for S/N: 20230951072:

Ver	CDC	To	Dlvr	Show	Place+	Rule+	Renot+	InAct-	Map-	Rule-	OOG-	Renot-	Forced+
0	WEBCFM	WEBCFM	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	SCY		0	0	1	0	0	0	1	0	0	0	0
0	ME	ME	1	1	1	0	0	0	0	0	0	0	0
0	LW		0	0	1	0	0	0	1	0	0	0	0
0	GTC		0	0	1	0	0	0	1	0	0	0	0
0	GET	GET	1	1	1	0	0	0	0	0	0	0	0
0	GT1	GT1	1	1	1	0	0	0	0	0	0	0	0
0	CSA		0	0	1	0	0	0	1	0	0	0	0
0	BSD		0	0	1	0	0	0	1	0	0	0	0
0	ASL		0	0	1	0	0	0	1	0	0	0	0
0	CY	CY	1	1	1	0	0	0	0	0	0	0	0

ATTACHMENT for S/N: 20230951072 (20230951072-0.gif):

I&E
Exhibit 4

Alleged Violation Report

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

AVR Number	AVR2023JUN100001		
AVR Version	1		
First Name	PHILLIP	**Last Name**	WALTER
Company Name	PHILLIP WALTER		
Address	217 VICTOR ST		
City	GETTYSBURG		
State	PA		
Zip Code	17325		
Email	pw7543@comcast.net	**Phone**	7174762226
Ext			

Role

Submitter Role(s) (?)

- [ ] Facility Owner
- [ ] Excavator
- [ ] Locator
- [x] Other
  home owner
- [ ] 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) 37527

Related AVR Number (?)

Type of Alleged Violation (?)

Reason

When did the alleged violation occur? (?) 04/05/2023
10:00:00 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.

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 ADAMS

Municipality GETTYSBURG BORO

Ward

Work Site 217 Victor Street Gettysburg PA 17325

Nearest Intersection

Second Intersection

Geolocation (?)

Affected Facility Information

Primary Right of Way Type

Public Right of Way Type

Private Right of Way Type

Affected Operation Gas

Facility Subtype Affected Distribution

Facility Owner Company Name Home Residence

Contact First Name Phillip **Last Name** Walter

Address 217 Victor Street

City Gettysburg

State PA

Zip 17325

Email pw7543@comcast.net **Phone** 717-476-2226

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 Landmark Fence

Contact First Name Nick **Last Name**

Address

City

State

Zip

Email **Phone** 717-220-8694

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
- ☐ 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/marking 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

While digging holes for fence using power tool, Landmark fence struck the gas line. Work stopped until gas line was repaired. Landmark fence didn't mark lines prior to work as required by law. Received letter asking for copy of contract with landmark fence (attached).

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

Attachments

Tessa Walter 4' and 6' Dog Ear Picket.pdf 1.71MB

Attach pictures and additional documents

Submit Date

06/10/2023

Compliance Update

Research Result

- ☐ Listed tickets found
- ☑ Additional tickets found
- ☐ No tickets found

Additional Tickets Found

Additional Serial Numbers

20230951072

Ticket Attachment

Comments

I&E
Exhibit 5

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

INVOICE DATE	INVOICE NUMBER
11-22-2023	037525-006272
FISCAL YEAR	
July 1, 2023 - June 30, 2024	

Landmark Fence
Attn: Nick Enciu
11631 Country Club Ct
Waynesboro, PA 17268

- **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

Landmark Fence
Attn: Nick Enciu
11631 Country Club Ct
Waynesboro, PA 17268

INVOICE DATE	INVOICE NUMBER
11-22-2023	037525-006272
FISCAL YEAR	
July 1, 2023 - June 30, 2024	

PAY THIS AMOUNT WITHIN 30 DAYS **$2,750.00**

Attn: Damage Prevention Section

IN REPLY
PLEASE
REFER TO 811

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

November 22, 2023

Landmark Fence
Attn: Nick Enciu
11631 Country Club Ct
Waynesboro, PA 17268

Re: Notification of Damage Prevention Investigator Report

To whom it may concern,

We are writing to inform you that your company, Landmark Fence, 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. 037525 - Line strike in GETTYSBURG BORO, ADAMS County on **April 05, 2023** near 217 VICTOR ST. The incident resulted in damage to an underground facility owned by Columbia Gas of PA - Homeowner. (Related POCS Ticket Nos.: 20230951072.)

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

November 22, 2023

Investigation

Investigator name: Ferron, Kristal **Incident date:** 04/05/23 09:00 AM

Case Number: 037525 **Was 911 called?** Yes **Did damage occur?** Yes

Site of Alleged Violation: 217 VICTOR ST
GETTYSBURG BORO, ADAMS Country
Near PINE ST and N FOURTH ST

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

Facility Owner: Alicia Breighner, Columbia Gas of PA - Homeowner, 1600 Colony Rd, York, PA, 17408
Submitted report? Yes **Is PA One Call member?** Yes

Contractor/Excavator: Nick Enciu, Landmark Fence, 11631 Country Club Ct, Waynesboro, PA, 17268
Submitted report? Yes **Is PA One Call member?** Yes

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

Ticket Information: 20230951072 / Emergency / 04/05/23, 09:46 AM (Landmark Fence)

Other Investigations Related by Ticket: None

Synopsis of the events that led to the damaged facility:

Incident occurred on 4/5/2023 at 9:00am at 217 Victor St., Gettysburg Boro, Adams County.

A Columbia Gas line was hit (on the Homeowners side of the line).

Columbia Gas' alleged violation report (AVR) states "Landmark Fence hit a customer-owned 1" plastic gas service while auguring for a new fence install. 911 was immediately contacted. Columbia Gas responded immediately to make the area safe and marked out all the gas facilities in the work area. After the damage, Landmark Fence placed emergency ticket # 20230951072 to complete their fence install. The local Damage Prevention Specialist (DPS) followed up with Landmark Fence regarding the customer-owned gas service damage and the PA One Call law. The DPS discussed in great detail the law, differences between MD and PA, the PUC and enforcement, and other damage root causes in the past. Landmark was very receptive to the conversation and training and agreed moving forward they will have a process to complete all of their PA One Call tickets."

Landmark Fence's alleged violation report (AVR) did not provide a summary of what happened.

On 5/11/2023 a letter was mailed to the Homeowner.

Homeowner's alleged violation report (AVR) states "While digging holes for fence using power tool, Landmark fence struck the gas line. Work stopped until gas line was repaired. Landmark fence didn't mark lines prior to work as required by law. Received letter asking for copy of contract with landmark fence (attached)."

Landmark Fence is in violation of sections:
Section 5(2.1) – Excavator failed to submit a location request to One Call within the correct timeframe. Did not have a Pa One Call Ticket placed.
Section 5(9) – Emergency notification does not meet the requirements of “emergency” as defined in Section 1 – Excavator Ticket. Not a proper use of an Emergency Ticket - Called in an emergency ticket to complete the job.
Section 5(6)(i) – Excavator failed to plan the excavation or demolition work to avoid damage to or minimize interference with a facility owner’s facilities in the construction area.
Recommendation: Education Required; penalties applied

Amount of property damage: None **Impact on public:** 1-6 hrs service interruption, 1 customer affected

Entity out of compliance Landmark Fence

Compliance Violations:

Section		Status	Ticket Number	Offense	Penalty	Factor	Factor Penalty	Total Penalty
5 (6)(i)	Excavator failed to plan the excavation or demolition work to avoid damage to or minimize interference with a facility owner's facilities in the construction area	Proposed		1st Offense	$250.00	0 %	$0.00	$250.00
Recommendation: Education Required								
5 (2.1)	Excavator failed to submit a location request to One Call within the correct timeframe	Proposed		2nd Offense	$1,500.00	0 %	$0.00	$1,500.00
Recommendation: Education Required								
5 (9)	Emergency notification does not meet the requirements of "emergency" as defined in Section 1 - Excavator Ticket	Proposed		1st Offense	$1,000.00	0 %	$0.00	$1,000.00
Recommendation: Education Required								
Totals					**$2,750.00**		**$0.00**	**$2,750.00**

Previous Violations:

Violation Number	Non-compliant Entity	Incident Date	Accepted Date	Sections	Total Penalty
034782-006203	Landmark Custom Fencing	11/03/22 08:00 AM	11/14/23	5(2.1) 1st Offense $1,000.00; 5(17) 1st Offense $500.00; 5(16) 1st Offense $500.00	$2,000.00

Name of Investigator: Ferron, Kristal **Date completed:** 08/14/23 03:59 PM

Name of Supervisor: Locke, Sara **Date completed:** 10/02/23 02:58 PM

I&E
Exhibit 6

Ferron, Kristal

From: PC, DamagePrevention
Sent: Tuesday, November 28, 2023 8:17 AM
To: Ferron, Kristal
Subject: FW: [External] Case No. 037525

Please see below.

From: Landmark Fence <landmarkcustomfence@gmail.com>
Sent: Monday, November 27, 2023 4:18 PM
To: PC, DamagePrevention <RA-PCDAMAGEPREVENTIO@pa.gov>
Subject: [External] Case No. 037525

ATTENTION: *This email message is from an external sender. Do not open links or attachments from unknown senders. To report suspicious email, use the Report Phishing button in Outlook.*

Please accept this email as our official request for a hearing in front of the board --
~~~~

Confidentiality Warning: This message is intended only for the use of the individual or entity to which it is addressed, and may contain information which is privileged, confidential, proprietary or exempt from disclosure under applicable law. If you are not the intended recipient or the person responsible for delivering the message to the intended recipient, you are strictly prohibited from disclosing, distributing, copying or in any way using this message. If you have received this communication in error, please notify the sender, and destroy and delete any copies you may have received.

LANDMARK FENCE
11631 Country Club Ct
Waynesboro, PA 17268

400 Mall Dr.
Martinsburg, WV 25401

240-707-0943 Direct
443-440-5914 Fax

www.landmarkcustomfence.com
www.facebook.com/landmarkcustomfence
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I&E
Exhibit 7

IN REPLY PLEASE
REFER TO 811

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

January 09, 2024

Landmark Fence
Attn: Nick Enciu
11631 Country Club Ct
Waynesboro, PA 17268

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. 037525. This case involves a line strike in GETTYSBURG BORO, ADAMS County on **April 05, 2023** near 217 VICTOR ST. The incident resulted in damage to an underground facility owned by Columbia Gas of PA - Homeowner.

This case has been scheduled for discussion at a hybrid, DPC Meeting on **February 13, 2024** 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
5(2.1)	Excavator failed to submit a location request to One Call within the correct timeframe	2nd Offense
5(6)(i)	Excavator failed to plan the excavation or demolition work to avoid damage to or minimize interference with a facility owner's facilities in the construction area	1st Offense
5(9)	Emergency notification does not meet the requirements of "emergency" as defined in Section 1 - Excavator Ticket	1st Offense

At the meeting, the DPC will discuss and determine whether to accept the DPI's recommendation regarding this case. Landmark Fence 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 or call 717-787-6489.

Sincerely,

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

I&E
Exhibit 8

Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
Harrisburg, PA 17120
ADMINISTRATIVE PENALTY INVOICE

INVOICE DATE	INVOICE NUMBER
11-22-2023	037525-006272
FISCAL YEAR	
July 1, 2023 - June 30, 2024	

Landmark Fence
Attn: Nick Enciu
11631 Country Club Ct
Waynesboro, PA 17268

- **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
400 NORTH STREET
HARRISBURG, PA 17120

FOLD AND CUT HERE

RETURN THIS PORTION WITH YOUR REMITTANCE

Landmark Fence
Attn: Nick Enciu
11631 Country Club Ct
Waynesboro, PA 17268

INVOICE DATE	INVOICE NUMBER
11-22-2023	037525-006272
FISCAL YEAR	
July 1, 2023 - June 30, 2024	

PAY THIS AMOUNT WITHIN 30 DAYS **$2,750.00**

Attn: Damage Prevention Section

IN REPLY PLEASE
REFER TO 811

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

February 15, 2024

Landmark Fence
Attn: Nick Enciu
11631 Country Club Ct
Waynesboro, PA 17268

Re: Notification of Damage Prevention Committee Informal Determination

To whom it may concern,

We are writing to inform you that Landmark Fence 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 **February 13, 2024** 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. 037525 - Line strike in GETTYSBURG BORO, ADAMS County on **April 05, 2023** near 217 VICTOR ST. The incident resulted in damage to an underground facility owned by Columbia Gas of PA - Homeowner. (Related PA One Call Ticket Nos.: 20230951072.)

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

Section		Offense	Penalty	Factor	Factor Penalty	Total Penalty
5(2.1)	Excavator failed to submit a location request to One Call within the correct timeframe	2nd Offense	$1,500.00	0 %	$0.00	$1,500.00
Recommendation: Education Required						
5(6)(i)	Excavator failed to plan the excavation or demolition work to avoid damage to or minimize interference with a facility owner's facilities in the construction area	1st Offense	$250.00	0 %	$0.00	$250.00
Recommendation: Education Required						
5(9)	Emergency notification does not meet the requirements of "emergency" as defined in Section 1 - Excavator Ticket	1st Offense	$1,000.00	0 %	$0.00	$1,000.00
Recommendation: Education Required						
Total			**$2,750.00**		**$0.00**	**$2,750.00**

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,

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

Enclosure

I&E
Exhibit 9

Ferron, Kristal

From: Landmark Fence <landmarkcustomfence@gmail.com>
Sent: Friday, February 16, 2024 2:16 PM
To: PC, DamagePrevention
Subject: [External] Ref Case No. 037525

ATTENTION: *This email message is from an external sender. Do not open links or attachments from unknown senders. To report suspicious email, use the Report Phishing button in Outlook.*

Please accept this email as my official request of rejecting the DPC decision on
Case No. 037525

I request to a hearing

Thank you

~~~~

Confidentiality Warning: This message is intended only for the use of the individual or entity to which it is addressed, and may contain information which is privileged, confidential, proprietary or exempt from disclosure under applicable law. If you are not the intended recipient or the person responsible for delivering the message to the intended recipient, you are strictly prohibited from disclosing, distributing, copying or in any way using this message. If you have received this communication in error, please notify the sender, and destroy and delete any copies you may have received.

LANDMARK FENCE
11631 Country Club Ct
Waynesboro, PA 17268

400 Mall Dr.
Martinsburg, WV 25401

240-707-0943 Direct
443-440-5914 Fax

www.landmarkcustomfence.com
www.facebook.com/landmarkcustomfence
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement, Complainant	: : : : :	
v.	:	Docket No. C-2024-
	:	
Landmark Fence, 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

Landmark Fence
Attn: Nick Enciu
11631 Country Club Ct.
Waynesboro, PA 17268

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: March 27, 2024