



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

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

November 13, 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-2024-3047887  
**I&E Motion for Default Judgment (Damage Prevention)**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's Motion for Default Judgment in the above-referenced proceeding.

Copies have been served on the parties of record in accordance with the Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'G. Rosul', with a long horizontal flourish extending to the right.

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: Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2024-3047887
	:	
Landmark Fence,	:	
Respondent	:	

**NOTICE TO PLEAD**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) has filed a Motion for Default Judgment in the above-captioned matter, pursuant to the Commission’s regulations at 52 Pa. Code § 5.103. You are hereby notified to file a written response within twenty (20) days of the service of the Motion, consistent with 52 Pa. Code § 5.61.

Your Answer must be verified, pursuant to 52 Pa. Code § 1.36, and the original sent to:

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

Additionally, you must serve a copy on the undersigned prosecutor.



\_\_\_\_\_  
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: November 13, 2024

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2024-3047887
	:	
Landmark Fence,	:	
Respondent	:	

**MOTION FOR DEFAULT JUDGMENT**

NOW COMES the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”), by its prosecuting attorney, and files this Motion for Default Judgment against Landmark Fence (“Respondent”) pursuant to Section 5.103 of the Commission’s regulations, 52 Pa. Code § 5.103. In support thereof, I&E respectfully represents as follows:

1. I&E commenced this action on March 27, 2024, by filing a Complaint in this Damage Prevention matter.<sup>1</sup>
  
2. The Complaint alleged that Respondent violated the Underground Utility Line Protection Law, known as the PA One Call Law, Act of October 30, 2017, P.L. 806, No. 50, 73 P.S. § 176 *et seq.*, by failing to place a valid, routine locate request ticket through the POCS prior to excavating, failing to plan its excavation work to avoid damage to or minimize interference with a facility owner’s lines, and failing to use best efforts to comply with the Common Ground Alliance Best Practices Manual, Best Practice 5-26, when it improperly placed an emergency excavation ticket.
  
3. On March 27, 2024, the Complaint was served by certified mail on Respondent at

---

<sup>1</sup> “Damage Prevention” is a shorthand reference for matters referred to I&E, as the Commission’s prosecutory staff, pursuant to the PA One Call Law. *See* 73 P.S. § 182.8.

11631 Country Club Court, Waynesboro, PA 17268, which is the last known mailing address that Respondent provided to the Commission, and which had been used to correspond with Respondent prior to the filing of the Complaint.

4. Attached to the Complaint was a Notice advising Respondent that it must file an Answer within twenty (20) days of service of the Complaint.

5. The Notice also advised Respondent that if it failed to answer the Complaint, I&E would request that the Commission issue an Order imposing the penalty set forth in the Complaint.

6. On or about March 29, 2024, the undersigned I&E prosecutor was contacted by Mark Garfinkel, Esq., who entered into settlement negotiations on Respondent's behalf.

7. On or about April 8, 2024, I&E and the Respondent tentatively agreed to settle this matter for a lesser administrative penalty than that sought in I&E's Complaint.

8. Between the date of the tentative settlement and the date of this filing, I&E contacted Respondent's counsel on several occasions to inquire about the status of Respondent's settlement payment.

9. To date, Respondent has not paid the agreed-upon administrative penalty to settle this matter.

10. To date, Mark Garfinkel, Esq., has not formally entered his appearance in this matter.

11. The twenty (20) days to file an Answer to the Complaint expired on April 16, 2024.

12. Respondent did not file an Answer to the Complaint.

13. Pursuant to Section 5.61(c) of the Commission's regulations, a Respondent who fails to file an Answer to a Complaint within the 20-day response period may be deemed in

default, and the relevant facts stated in the Complaint may be deemed admitted. 52 Pa. Code § 5.61(c).

14. The Commonwealth Court has upheld the Commission's authority to sustain complaints that are not answered within twenty days. *See Fusaro v. Pa. Pub. Util. Comm'n*, 382 A.2d 794, 797 (Pa. Cmwlth. 1978).

**WHEREFORE**, for all the foregoing reasons, I&E respectfully moves that the Commission enter a Default Order against Respondent that:

- a. Sustains the Complaint filed by I&E;
- b. Directs Landmark Fence to pay an administrative penalty of \$4,000 within thirty (30) days of the entry date of a Final Commission Order;
- c. Directs Landmark Fence to attend an education program for excavators through the Damage Prevention Committee and provide proof of compliance to the Commission; and
- d. Directs the Bureau of Administration, Financial & Assessments Office, to refer the matter to the Pennsylvania Office of Attorney General for collection of the total set forth in subparagraph (a), above, if Landmark Fence fails to pay that total within thirty (30) days of the entry date of a Final Commission Order.

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: November 13, 2024

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2024-3047887
	:	
Landmark Fence,	:	
Respondent	:	

**CERTIFICATE OF SERVICE**

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

**Served via First Class Mail**

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

**Served via Electronic Mail**

Mark Garfinkel, Esq.  
Garfinkel Law LLC  
418 N. Potomac St.  
Hagerstown, MD 21742  
[Mark@garfinkellaw.com](mailto:Mark@garfinkellaw.com)  
*Counsel for Landmark Fence*



---

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

Dated: November 13, 2024