



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

March 6, 2025

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.
Pennsylvania American Water Company
Docket No. C-2025-
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', written over a light blue horizontal line.

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

GR/ac
Enclosures

cc: Michael L. Swindler, Deputy Chief Prosecutor, Enforcement (*via email* – mwindler@pa.gov)
Robert Horensky, Manager, Safety Division (*via email* – rhorensky@pa.gov)
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.

In Addition to filing your Answer with the Commission’s Secretary, 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, if any, 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-2025-
	:	
Pennsylvania American Water Company,	:	
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 Pennsylvania American Water Company (“PAWC” or “Respondent”) alleging violations of the PA One Call Law in connection with an August 1, 2023, incident where an excavator working on behalf of Columbia Gas to install a new gas main struck and damaged a mismarked 1-inch copper water service line operated by PAWC near 108 Guadalcanal Road in Neshannock Township, Lawrence County, Pennsylvania. The violation alleged herein relates to PAWC’s failure to accurately mark its line.

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 attorney is as follows:

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

4. Respondent is the Pennsylvania American Water Company with a main mailing address of 852 Wesley Drive, Mechanicsburg, PA 17055.

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

6. A water line is a “facility” or “line,” as those terms are defined in Section 176 of the PA One Call Law, 73 P.S. § 176.²

¹ “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.

² “Facility” or “line” is defined in relevant part as “an underground conductor or underground pipe or structure used in providing electric or communication service, or an underground pipe used in carrying, gathering, transporting or providing natural or artificial gas, petroleum, propane, oil or petroleum and production product, sewage, water or other service to one or more transportation carriers, consumers or customers of such service and the appurtenances thereto, regardless of whether such line or structure is located on land owned by a person or public agency or whether it is located within an easement or right-of-way.” 73 P.S. § 176.

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

8. Specifically, Section 177(5)(i) of the PA One Call Law requires a facility owner to “mark, stake, locate or otherwise provide the position of the facility owner's underground lines at the work site within eighteen inches horizontally from the outside wall of such line in a manner so as to enable the excavator, where appropriate, to employ prudent techniques....” 73 P.S. § 177(5)(i). This 18-inch horizontal buffer on each side of an underground line is also known as the tolerance zone.

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 August 1, 2023, R and R Pipeline was excavating in the vicinity of 108 Guadalcanal Road between N. Mercer Street and Midway Island Circle in Neshannock Township, Lawrence County, on behalf of Columbia Gas of Pennsylvania, Inc. (“Columbia Gas”) to replace gas lines in the area when it struck a mismarked 1-inch copper water service line belonging to PAWC. I&E Exhibit 1.

15. A photograph provided by Columbia Gas shows the aftermath of the line strike adjacent to 108 Guadalcanal Road. I&E Exhibit 2.

16. In this photograph, a trench filled with water is seen next to a “hit kit” with two markers respectively displaying the words “MARK” and “DAMAGE.” Id.

17. The blue paint on the asphalt is PAWC’s marking of its line. Id.

18. However, the line strike is at the location of the “DAMAGE” marker. Id.

19. The “DAMAGE” marker, and the 1-inch copper service line that was struck, are more than 18 inches from the blue paint mark on the asphalt by PAWC. Id.

20. PAWC was, at all times, a “facility owner” as that term is defined in the PA One Call Law and was obligated to respond to a designer’s request for information through POCS.

21. On May 22, 2024, a copy of the report prepared by the Damage Prevention Investigator (“DPI”) from the Commission’s Bureau of Investigation and Enforcement,

Damage Prevention Section (“DPS”) was mailed to PAWC, informing Respondent that it was in violation of the PA One Call Law by failing to timely respond to a designer’s locate request (two counts for two separate locate requests), failing to locate its lines within 18 inches of the tolerance zone, and failing to maintain records of abandoned existing mainlines. The letter further informed PAWC that it could either accept the findings in the DPI’s report or reject them and present its case to the Damage Prevention Committee (“DPC”).

22. PAWC accepted the two violations for failing to timely respond to the designer’s locate requests, rejected the violation for failing to mark its lines within 18 inches of the tolerance zone, and the DPI withdrew the alleged violation of failing to locate and existing abandoned main line.

23. On August 15, 2024, a notice of the DPC meeting was sent to PAWC, informing Respondent that it would be afforded an opportunity to present its case to the DPC at the September 10, 2024, meeting.

24. PAWC appeared at the September 10, 2024, DPC hearing to present Respondent’s case. Respondent’s case was discussed and voted upon by the DPC, which voted to accept the violations and administrative penalty recommended by the DPI.

25. On September 11, 2024, a copy of the DPC’s Informal Determination accepting the DPI’s report and proposed penalty was mailed to PAWC, 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.

26. On December 13, 2024, Respondent informed the DPI via e-mail that it would reject 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 locate its underground utility lines within 18 inches horizontally of the outside wall of the line.

If proven, this is a violation of Section 177(5)(i) of the PA One Call Law, 73 P.S. § 177(5)(i) As a facility owner, Respondent had a duty to “mark, stake, locate or otherwise provide the position of the facility owner's underground lines at the work site within eighteen inches horizontally from the outside wall of such line in a manner so as to enable the excavator, where appropriate, to employ prudent techniques.... Facility owners shall make reasonable efforts during the excavation phase to locate or notify excavators of the existence and type of abandoned lines.” 73 P.S. § 177(5)(i).

Here, Respondent was obligated to accurately mark its lines within the tolerance zone but failed to do so.

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 Pennsylvania American Water Company to be in violation of the PA One Call Law at § 177(5)(i).

- (2) Impose an administrative penalty upon the Pennsylvania American Water Company in the amount of \$2,000.
- (3) Order the Pennsylvania American Water Company to attend Online Compliance Training through the Pennsylvania One Call System for facility owners and provide proof of compliance to the Commission within 30 days of the entry of a Final Commission Order; and
- (3) Order such other remedies as the Commission may deem appropriate.
- (4) If payment of the administrative penalty is not made, the Bureau of Investigation and Enforcement requests that this matter be referred to the Pennsylvania Office of the Attorney General for appropriate action.

Respectfully submitted,



Grant Rosul
Prosecutor
PA Attorney ID No. 318204

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

Date: March 6, 2025

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2025-
	:	
Pennsylvania American Water Company,	:	
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 6, 2025



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 AVR2023AUG070022

AVR Version 1

First Name Alicia **Last Name** Breighner

Company Name Columbia Gas of PA - North

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
 - 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 (?) Facility Owner Issue

Reason Marked incorrectly §2(5)

When did the alleged violation occur? (?) 08/01/2023
09:00:00 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.

20231173885

Related Damage Serial Number, if applicable 20232130878

Other Related Serial Numbers (?) 20232012525

Other Related Serial Numbers (?) 20230272727

Other Related Serial Numbers (?) 20223252078

Other Related Serial Numbers (?) 20223252079

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

Reason for Exemption

Event Information

County LAWRENCE
Municipality NEW CASTLE CITY
Ward 0
Work Site 108 GUADALCANAL RD
Nearest Intersection MERCER ST
Second Intersection TULAGI WAY
Geolocation (?)

Affected Facility Information

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

Affected Operation Water
Facility Subtype Affected Service/Drop/Lateral
Facility Owner Company Name PA American Water
Contact First Name Hunter **Last Name** Paaw
Address 2736 Ellwood Rd

City New Castle
State PA
Zip 16101
Email **Phone** 724-923-8589
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 (?) 08/01/2023
07:00:00 AM
Excavation Activity NATURAL GAS
Excavator Company Name R and R Pipeline
Contact First Name Kaitlin **Last Name** Reese
Address 132 Westgate Dr
City Beaver Falls
State PA
Zip 15010
Email kaitlin.reese@randrpipe
lin.e.com **Phone** 724-971-1142
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?
Utility
Did Excavator incur down time? Yes No Unknown
How much down time?
Estimated cost of down time
Was a response posted to the One Call System? Yes No Unknown
Was the design serial number on the plans/bid documents? Yes No Unknown

Were the lines shown on the plans/bid documents? Yes No Unknown

What level of subsurface utility engineering was utilized? C (Above ground survey)

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

What was the length of the entire project? 9575 FT

Project Owner Company Name Columbia Gas of PA

Contact First Name Alicia Last Name Breighner

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

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? Other

Locator Company PA American Water

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 Readily Visible

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

Reason for Late Locate

Was the excavation within the tolerance zone? (?) Yes No Unknown

Was there an indication of underground facilities (clear evidence) in the excavation area? Yes No Unknown

What was the evidence? Curb Valve
(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 The locate marks for the damaged water service were off by approximately 5 feet.
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 R and R Pipeline, working on behalf of Columbia Gas for an infrastructure replacement project, was digging to install new gas mainline and services when they damaged an inaccurately marked 1" copper water service, resulting in a loss of service for 1 customer.

Root Cause: Locator Error
Facility was marked incorrectly.
If more space is needed, attach additional pages or documents.

Attachments
108 Guadalcanal Rd., New Castle_Water Damage (1).jpg 3.1MB
108 Guadalcanal Rd., New Castle_Water Damage (2).jpg 3.32MB
Attach pictures and additional documents

Submit Date 08/07/2023

Compliance Update

Research Result Listed tickets found
 Additional tickets found
 No tickets found

Additional Tickets Found

Additional Serial Numbers

Ticket Attachment 3244838_report.pdf 515.86KB

Comments

I&E Exhibit 2



**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2025-
	:	
Pennsylvania American Water Company,	:	
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 and Electronic Mail

Pennsylvania American Water Company
Attn: Erin Fure, Esq.
852 Wesley Drive
Mechanicsburg, PA 17055
erin.fure@amwater.com



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

Dated: March 6, 2025