

COMMONWEALTH OF PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :  
Bureau of Investigation and Enforcement :

Complainant, :

vs. :

A. LIBERONI, INC., :

Respondent. :

Case No.: C-2025-3055930

**ANSWER & NEW MATTER**

Filed on behalf of:  
Respondent

Counsel of Record for this Party:

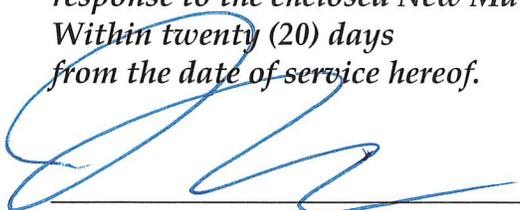
Howard F. Murphy, Esquire  
Pa. I.D. #82271

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Notice to Plead

*You are hereby notified to file a written  
response to the enclosed New Matter  
Within twenty (20) days  
from the date of service hereof.*



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**Howard F. Murphy**  
**Attorney For Respondent**

COMMONWEALTH OF PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :  
Bureau of Investigation and Enforcement :  
Complainant, : Case No.: C-2025-3055930  
vs. :  
A. LIBERONI, INC., :  
Respondent. :

ANSWER

AND NOW, comes the Respondent, A. LIBERONI, INC., by and through its attorney, Howard F. Murphy, Esquire and hereby files the within Answer and New Matter to the Complaint filed by the Pennsylvania Public Utility Commission Bureau of Investigation and Enforcement (hereinafter, "I&E") in the referenced matter and avers as follows:

1. The averments contained in Paragraph 1 of the I&E's Complaint state a conclusion of law to which no response is required.
2. The averments contained in Paragraph 2 of the I&E's Complaint state a conclusion of law to which no response is required.
3. After reasonable investigation the Respondent is without knowledge or information sufficient to form a belief as to the truth of the averments made in Paragraph 3 the I&E's Complaint.
4. The averments contained in Paragraph 4 of the I&E's Complaint are

hereby admitted.

5. The averments contained in Paragraph 5 of the I&E's Complaint state a conclusion of law to which no response is required. To the extent that a response is required it is admitted that Respondent does perform work that is included in the definition of Excavator as cited by I&E in its Complaint.

6. The averments contained in Paragraph 6 of the I&E's Complaint state a conclusion of law to which no response is required. To the extent that a response is required it is admitted that the cited statute does require certain defined entities to perform certain duties under certain circumstances.

7. The averments contained in Paragraph 7 of the I&E's Complaint state a conclusion of law to which no response is required. To the extent that a response is required it is denied that this is an accurate and complete quote to the referenced provision of the statute. To the contrary this is a small portion of the actual language in said statute. Moreover, the quoted portion of the statute applies, "[I]n a complex project or if an excavator intends to perform work at multiple work sites or over a large area, . . .". By way of further response, the work performed by the Respondent in the current matter was located between two specific intersections and was not "complex" as defined by the statute.

8. The averments contained in Paragraph 8 of the I&E's Complaint state a conclusion of law to which no response is required.

9. The averments contained in Paragraph 9 of the I&E's Complaint state a conclusion of law to which no response is required. To the extent that a response is required it is denied that this is an accurate and complete quote to the referenced provision of the statute. To the contrary this is a small portion of the actual language in said statute. By way of further response, the version of 73 P.S. § 180 in effect at the time of the alleged incident requires an excavator:

To immediately notify 911 and the facility owner if the damage results in the escape of any flammable, toxic or corrosive gas or liquid which endangers life, health or property. The excavator shall take reasonable measures, based on its knowledge, training, resources, experience and understanding of the situation, to protect themselves and those in immediate danger, the general public, the property and the environment until the facility owner or emergency responders have arrived and completed their assessment and shall remain on the work site to convey any pertinent information to responders that may help them to safely mitigate the situation.

The Respondent denies that there was ever any danger to life, health or property on the relative project which required a call to 911.

10. The averments contained in Paragraph 10 of the I&E's Complaint state a conclusion of law to which no response is required. By way of further response, the work performed by the Respondent in the current matter was located between two specific intersections and was not "complex" as defined by the statute.

11. The averments contained in Paragraph 10 of the I&E's Complaint state a conclusion of law to which no response is required. By way of further response, the work performed by the Respondent in the current matter was located between two specific intersections and was not "complex" as defined by the statute. Nevertheless, the Respondent scheduled and held a preconstruction meeting on April 23, 2024. Peoples

Gas was invited to said meeting but, did not attend.

12. The averments contained in Paragraph 12 of the I&E's Complaint state a conclusion of law to which no response is required.

13. The averments contained in Paragraph 13 of the I&E's Complaint state a conclusion of law to which no response is required.

14. The averments contained in Paragraph 14 of the I&E's Complaint state a conclusion of law to which no response is required.

15. The averments contained in Paragraph 15 of the I&E's Complaint state a conclusion of law to which no response is required.

16. The averments contained in Paragraph 16 of the I&E's Complaint state a conclusion of law to which no response is required.

17. The averments contained in Paragraph 17 of the I&E's Complaint state a conclusion of law to which no response is required.

18. The averments contained in Paragraph 18 of the I&E's Complaint are denied as stated. It is admitted that Respondent was excavating on Sylvan Avenue on October 15, 2024 and that a gas line operated by Peoples Gas was struck.

19. The averments contained in Paragraph 19 of the I&E's Complaint are admitted.

20. The averments contained in Paragraph 20 of the I&E's Complaint refer to the terms of a written document whose terms speak for themselves. Any attempt on the part of the Plaintiff to interpret, categorize or explain any such written terms are hereby denied.

21. The averments contained in Paragraph 21 of the I&E's Complaint are admitted.

22. The averments contained in Paragraph 22 of the I&E's Complaint refer to the terms of a written document whose terms speak for themselves. Any attempt on the part of the I&E to interpret, categorize or explain any such written terms are hereby denied.

23. After reasonable investigation the Respondent is without knowledge or information sufficient to form a belief as to the truth of the averments made in Paragraph 23 the I&E's Complaint.

24. The averments contained in Paragraph 24 of the I&E's Complaint are denied as stated. It is admitted that Respondent submitted an AVR. To the extent that the allegations at said Paragraph 24 refer to the terms of a written document, it is alleged that said written terms speak for themselves. Any attempt on the part of the I&E to interpret, categorize or explain any such written terms are hereby denied.

25. The averments contained in Paragraph 25 of the I&E's Complaint state a conclusion of law to which no response is required. By way of further response, it is denied that Respondent was required to hold a preconstruction meeting. Nevertheless, Respondent did hold a preconstruction meeting on April 23, 2024 which was attended by representatives of the City of Pittsburgh, the Pennsylvania Department of Transportation, the Pittsburgh Water and Sewer Authority, Verizon and other individuals. Peoples Gas was invited to attend and did not do so.

26. The averments contained in Paragraph 26 of the I&E's Complaint are

denied. To the contrary, Respondent did hold a preconstruction meeting on April 23, 2024 which was attended by representatives of the City of Pittsburgh, the Pennsylvania Department of Transportation, the Pittsburgh Water and Sewer Authority, Verizon and other individuals. Peoples Gas was invited to attend and did not do so. By way of further response, it is denied that Respondent was required to hold a preconstruction meeting.

27. The averments contained in Paragraph 27 of the I&E's Complaint are denied as stated. It is admitted that Respondent was excavating on Sylvan Avenue on October 15, 2024 and that a gas line operated by Peoples Gas was struck.

28. The averments contained in Paragraph 28 of the I&E's Complaint are denied as stated. It is admitted that Respondent was excavating on Sylvan Avenue on October 15, 2024 and that a gas line operated by Peoples Gas was struck. It is denied that the escape of gas from the line endangered life, health or property. The damage to the pipe was immediately remediated to stop the gas from escaping from the line and People's Gas, who was working on the next street over, was on the job site to shut off the gas in less than thirty minutes. At no time was any person or property in any danger of being damaged as a result of this incident.

29. The averments contained in Paragraph 29 of the I&E's Complaint are admitted. By way of further response, it is denied that Respondent was required to call 911. The Respondent was only required to call 911 in the event that gas escaping from the damaged line endangered life, health or property. It is specifically denied that the escape of gas from the line in this matter endangered any life, health or property. The

damage to the pipe was immediately remediated to stop the gas from escaping from the line and People's Gas, who was working on the next street over, was on the job site to shut off the gas in less than thirty minutes. At no time was any person or property in any danger of being damaged in any way whatsoever as a result of this incident.

30. The averments contained in Paragraph 30 of the I&E's Complaint are denied as stated. It is admitted that said report was prepared and mailed to the Respondent. It is denied that the Respondent was in violation of the PA One Call Law. By way of further response, it is denied that this was a complex one call or that a preconstruction meeting was required. Nevertheless, it is averred that that Respondent did have a preconstruction meeting on April 23, 2024. Moreover, it is denied that Respondent was required to call 911. The Respondent was only required to call 911 in the event that gas escaping from the damaged line endangered life, health or property. It is specifically denied that the escape of gas from the line in this matter endangered any life, health or property. The damage to the pipe was immediately remediated to stop the gas from escaping from the line and People's Gas, who was working on the next street over, was on the job site to shut off the gas in less than thirty minutes. At no time was any person or property in any danger of being damaged in any way whatsoever as a result of this incident.

31. The averments contained in Paragraph 31 of the I&E's Complaint refer to the terms of a written document whose terms speak for themselves. Any attempt on the part of the Plaintiff to interpret, categorize or explain any such written terms are hereby denied.

32. The averments contained in Paragraph 32 of the I&E's Complaint are denied as stated. It is admitted that Respondent rejected the allegations asserted by the DPI in said report and that it requested a hearing.

33. The averments contained in Paragraph 33 of the I&E's Complaint are denied as stated. It is admitted that Respondent received a notice regarding a meeting.

34. The averments contained in Paragraph 34 of the I&E's Complaint are denied as admitted.

35. The averments contained in Paragraph 35 of the I&E's Complaint refer to the terms of a written document whose terms speak for themselves. Any attempt on the part of the Plaintiff to interpret, categorize or explain any such written terms are hereby denied. It is admitted that a an informal determination was mailed to Respondent.

36. The averments contained in Paragraph 36 of the I&E's Complaint are denied as stated. It is denied that April 16, 2024 is the same day as April 15, 2024. It is admitted that the Respondent rejects the allegations asserted by the DPI.

37. Respondents incorporate by reference, Paragraphs 1 through 36 of this Answer as if the same have been set forth at length herein.

**Count I - Failure to Hold a Preconstruction Meeting**

38. The averments contained in Paragraph 38 of the I&E's Complaint state a conclusion of law to which no response is required. By way of further response, it is denied that Respondent was required to hold a preconstruction meeting. This was not a complex project which required a preconstruction meeting. Nevertheless, Respondent did hold a preconstruction meeting on April 23, 2024 which was attended by

representatives of the City of Pittsburgh, the Pennsylvania Department of Transportation, the Pittsburgh Water and Sewer Authority, Verizon and other individuals. Peoples Gas was invited to attend and did not do so.

**Count II - Failure to Exercise Due Care and Avoid Interference with Lines**

39. The averments contained in Paragraph 38 of the I&E's Complaint state a conclusion of law to which no response is required. By way of further response, it is admitted that Respondent was excavating on Sylvan Avenue on October 15, 2024 and that a gas line operated by Peoples Gas was struck. It is denied that the escape of gas from the line endangered life, health or property. The damage to the pipe was immediately remediated to stop the gas from escaping from the line and People's Gas, who was working on the next street over, was on the job site to shut off the gas in less than thirty minutes. At no time was any person or property in any danger of being damaged as a result of this incident.

**Count III - Failure to Immediately Notify 911 of a Gas Leak**

40. The averments contained in Paragraph 38 of the I&E's Complaint state a conclusion of law to which no response is required. By way of further response, it is admitted that Respondent was excavating on Sylvan Avenue on October 15, 2024 and that a gas line operated by Peoples Gas was struck. It is denied that Respondent was required to call 911. The Respondent was only required to call 911 in the event that gas escaping from the damaged line endangered life, health or property. It is specifically denied that the escape of gas from the line in this matter endangered any life, health or property. The damage to the pipe was immediately remediated to stop the gas from

escaping from the line and People's Gas, who was working on the next street over, was on the job site to shut off the gas in less than thirty minutes. At no time was any person or property in any danger of being damaged in any way whatsoever as a result of this incident.

WHEREFORE, the Respondent requests the Commission to enter an award in favor of the Respondent and against the I&E and dismiss Complaint filed by the I&E.

### **DEFENSES & NEW MATTER**

AND NOW, come the Respondent, A. LIBERONI, INC., by and through his attorney, Howard F. Murphy, Esquire, hereby file the within Defenses & New Matter and in support thereof avers as follows:

41. Respondents incorporate by reference, Paragraphs 1 through 40 of this Answer and New Matter as if the same have been set forth at length herein.

42. The Respondent complied with all of the requirements and duties imposed by the Pennsylvania One-Call Act as well as all of duties relative to each of the alleged "incidents" stated in the I&E's Complaint.

43. The project at issue in the I&E's Complaint was not a "complex" project as defined by 73 P.S. § 176.

44. Tullymet Street is a paper Street that does not exist in reality and is not an intersecting street with Sylvan Avenue.

45. The work on this project was done on Sylvan Avenue between Home Rule Street and Hazelwood Street.

46. There were no other intersecting streets on Sylvan Avenue between Home

Rule Street and Hazelwood Street.

47. A preconstruction meeting was not required for this project.

48. Nevertheless, it is averred that that Respondent did have a preconstruction meeting on April 23, 2024.

49. The Respondent's April 23, 2024 preconstruction meeting was attended by representatives of the City of Pittsburgh, the Pennsylvania Department of Transportation, the Pittsburgh Water and Sewer Authority, Verizon and other individuals.

50. Peoples Gas was invited to attend the said preconstruction meeting and did not do so.

51. The Respondent was excavating on Sylvan Avenue between Home Rule Street and Hazelwood Street on October 15, 2024.

52. On that day and in that place a gas line operated by Peoples Gas was struck.

53. It is denied that Respondent was required to call 911 at that time.

54. The Respondent was only required to call 911 in the event that gas escaping from the damaged line endangered life, health or property.

55. It is specifically denied that the escape of gas from the line in this matter endangered any life, health or property.

56. To the contrary, the damage to the pipe was immediately remediated to stop the gas from escaping from the line.

57. Moreover, People's Gas, who was working on the next street over, was on

the job site to shut off the gas in less than thirty minutes.

58. At no time was any person or property in any danger of being damaged in any way whatsoever as a result of this incident.

59. As a result, the Respondent was not in violation of 73 P.S. § 180(3) or 73 P.S. § 180(8) and should not be fined for violating those provisions of the statute.

60. Likewise, the Respondent does not think its conduct in striking the gas line on October 15, 2024 rises to the level of a violation of 73 P.S. § 180(4).

61. However, the Respondent concedes that it did strike the gas line on October 15, 2024.

62. Accordingly, if the Respondent's conduct in striking the gas line is a violation of 73 P.S. § 180(3), the Respondent respectfully submits that the initial proposed fine of \$500.00 is a more appropriate fine than the newly proposed fine of \$1,000.00

WHEREFORE, the Respondent requests the Commission to enter an award in favor of the Respondent and against the I&E and dismiss Complaint filed by the I&E.

Respectfully Submitted,



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Howard F. Murphy, Esquire  
Attorneys for Respondents

VERIFICATION

I, **Ryan Summers**, the undersigned, am duly authorized to make this verified statement on behalf of **A. Liberoni, Inc.**, and I hereby verify that the statements set forth in the foregoing Answer, New Matter & Counterclaim are true and correct to the best of my knowledge, information and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

DATE: 7/15/25

  
Ryan Summers

Ryan Summers

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VERIFICATION

I, **Anthony Liberoni**, the undersigned, am duly authorized to make this verified statement on behalf of **A. Liberoni, Inc.**, and I hereby verify that the statements set forth in the foregoing Answer, New Matter & Counterclaim are true and correct to the best of my knowledge, information and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

DATE: \_\_\_\_\_

7/15/2025

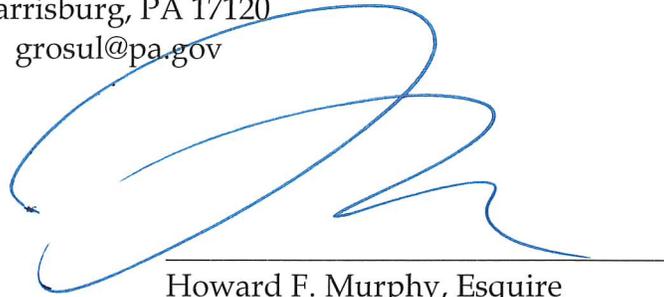
\_\_\_\_\_  
**Anthony Liberoni**



CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a true and correct copy of the foregoing **Answer & New Matter** has been served upon the following counsel of record by emailing or mailing the same first class mail, postage prepaid, this 15<sup>th</sup> day of July 2025, to the following address:

Grant Rosul, Esquire  
Bureau of Investigation and Enforcement  
400 North Street, Suite 3110  
Harrisburg, PA 17120  
grosul@pa.gov



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Howard F. Murphy, Esquire  
Attorneys for Respondents