



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

December 12, 2025

Via Electronic Filing

Matthew L. Homsher, 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.
NYCE Construction Services, Inc.
Docket No. C-2025-3056912
I&E's Reply Brief

Dear Secretary Homsher:

Enclosed please find the Reply Brief of the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement in the above-referenced proceeding.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please contact the undersigned.

Sincerely,

A handwritten signature in blue ink, appearing to read 'G. Rosul', is written over a light blue horizontal line.

Grant Rosul
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GR/ac
Enclosures

cc: As per Certificate of Service
Emily A. Farren, Administrative Law Judge (*via email* – efarren@pa.gov)
Allison C. Kaster, Director, I&E (*via email* – akaster@pa.gov)
Carrie B. Wright, Deputy Chief Prosecutor, I&E (*via email* – carwright@pa.gov)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2025-3056912
	:	
NYCE Construction Services, Inc.	:	
Respondent	:	

**REPLY BRIEF
OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

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Dated: December 12, 2025

I. PROCEDURAL HISTORY

The Bureau of Investigation and Enforcement (“I&E”) incorporates the procedural history as set forth in its Main Brief submitted on December 3, 2025, on pages 1 through 3. A Main Brief was also submitted by NYCE Construction Services, Inc. (“NYCE” or “Respondent”) on December 3, 2025, and in accordance with Commission regulations at Sections 5.501 and 5.502, I&E now submits this Reply Brief.¹

II. STATEMENT OF THE CASE

I&E herein references and incorporates the Statement of the Case section as set forth in its Main Brief submitted on December 3, 2025, on Page 3, as well as Appendix A – I&E’s Proposed Findings of Fact.

III. BURDEN OF PROOF

As stated in I&E’s Main Brief, I&E bears the burden of proof by a preponderance of the evidence.

IV. SUMMARY OF ARGUMENT

Respondent violated Section 180(2.1) of the PA One Call Law when it failed to submit a One Call Ticket to the Pennsylvania One Call System for excavation on October 10, 2024, to install a gas main. Respondent also violated Section 180(16) of the PA One Call Law when it failed to alert the Commission of its October 10, 2024, line strike on the electric line by timely submitting an Alleged Violation Report.

Because this case revolves around what the Respondent failed to do regarding submitting a Ticket and an AVR, the evidence is document-based. I&E presented evidence that there was no separate Ticket submitted by Respondent, and Respondent has admitted this. I&E presented

¹ 52 Pa. Code §§ 5.501-5.502; *see also* Interim Order on Briefing Scheduling, dated November 13, 2025.

evidence that Respondent's AVR was submitted untimely, and Respondent admitted the date on which it submitted its AVR. Respondent is disputing that the PA One Call Law required that it state that it was installing a gas main within the scope of work of its excavation and that the PA One Call Law required that it submit an AVR at all after the line strike, contending that an AVR must only be filed if there is a separate violation to report.

For reasons explained in more detail in I&E's Main Brief, Section 180(2.1) requires that an excavator submitting a locate request — also known as a "Ticket" — provide sufficient information to utilities who have underground facilities in the area. This would include the type of facility being worked on or installed. Further, Section 180(16) requires that an excavator report any line strike to the Commission via an AVR, regardless of whether a violation of the PA One Call Law occurred.

V. ARGUMENT

A. THE PA ONE CALL LAW REQUIRED RESPONDENT TO EITHER SPECIFY THAT THE SCOPE OF WORK FOR THE OCTOBER 10, 2024, EXCAVATION INCLUDED GAS MAIN INSTALLATION OR TO SUBMIT A SEPARATE TICKET

Excavators are required to submit a locate request — also known as a "Ticket" — to the Pennsylvania One Call System between 3 and 10 days before beginning excavation. 73 P.S. § 180(2.1). Additionally, the PA One Call Law specifically provides that "[i]f, after receiving information from the One Call System or directly from a facility owner, the excavator decides to change the location, scope or duration of a proposed excavation, the obligations imposed by this section shall apply to the new location." 73 P.S. § 180(13). In other words, if the location, scope, or duration of the excavation work change during the course of the work, the excavator must submit a new Ticket.

Here, Respondent submitted four tickets for the new housing development:

- 1) 20231320014 – Submitted 5/12/2023 – Type of Work described as “NEW HOUSES.”
- 2) 20240333036 – Submitted 2/2/2024 – Type of Work described as “NEW HOUSING DEVELOPMENT.”
- 3) 20240801491 – Submitted 3/20/2024 – Type of Work described as “Install New Water Main.”
- 4) 20242642373 (Renotification) – Submitted 9/25/2024 – Type of Work described as “Install Electric Service.”

None of the Tickets submitted by Respondent mentioned installing a gas main. Two Tickets previously submitted by Respondent mentioned the installation of a “new water main” and the installation of electric service.

In its Main Brief, Respondent² asserts that its February 2, 2024, Ticket covers all excavation in the area where the new homes were being constructed. However, it should be noted that additional Tickets were submitted by Respondent specifically for installing a new water main (Ticket serial no. 20240801491) and for installing electric service (Ticket serial no. 20242642373). The submission of separate Tickets for each excavation, as was done with Tickets 20240801491 and 20242642373, is the correct, statutorily compliant manner to submit locate requests or Tickets to the Pennsylvania One Call System.

Respondent argues³ that the September 25, 2024, Ticket, serial no. 20242642373, for installing the electric line should also cover the installation of the gas main because the work to

² *Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. NYCE Construction Services, Inc.*, Docket No. C-2025-3056912, Main Brief of NYCE Construction Services, Inc., pp. 5-6 (Dec. 3, 2025).

³ *Id.*

install both facilities occurred simultaneously. Otherwise, Respondent argues, an excavator would be required to submit multiple Tickets for the same excavation occurring over multiple days.

Had Respondent stated on its September 25, 2024, Ticket that it was also excavating to install a gas main line, that would have been sufficient — the scope of work of one Ticket can encompass work on more than one type of facility. However, Respondent did not. To be a valid excavation Ticket, the Ticket must accurately and completely describe the scope of work undertaken by the excavator.

Were it to be otherwise, an excavator would not need to describe the scope of work on its Ticket, nor would an excavator need to provide any further information to the Pennsylvania One Call System other than the location of its excavation. Under the interpretation of Section 180(2.1) offered by Respondent, an excavator could withhold or otherwise fail to provide information relating to the scope of work or duration, and its locate request would still be considered a valid Ticket. Such a situation would allow an excavator to change or expand the scope of its work or excavate over an indefinite duration of time. This would be antithetical to the purpose of the PA One Call Law, which is to protect underground utility lines.

Therefore, Respondent, to have submitted a valid PA One Call Ticket for the excavation to install a gas main, should have either included that work as being included within the scope of its excavation in its earlier, September 25, 2024, Ticket, or submitted a new Ticket to inform facility owners of the impending excavation and gas main installation. Respondent did not do so, and by this failure violated Section 180(2.1) of the PA One Call Law.

B. EXCAVATORS ARE REQUIRED BY STATUTE TO REPORT ANY AND ALL LINE STRIKES TO THE COMMISSION

As noted in I&E's Main Brief, Section 180(16) of the PA One Call Law, 73 P.S. §

180(16), requires that an excavator submit an AVR to the Pennsylvania One Call System, whenever either of the following occurs:

- 1) The excavator strikes or damages a facility owner's line during excavation or demolition; or
- 2) The excavator subjectively believes that a violation of the PA One Call Law has occurred.

At the time of the October 10, 2024, line strike, an excavator was required to do so within 10 business days of the line strike or observed violation.⁴

I&E proffered testimony at the November 12, 2025, hearing that Respondent did not submit its AVR until December 19, 2024. Respondent has admitted that it did not submit its AVR until that date in its Answer. Accordingly, Respondent's submission of its AVR was untimely.

However, Respondent argues that it did not need to submit an AVR because no underlying violation has occurred. Respondent asserts that I&E's witness, Damage Prevention Section Supervisor Sara Locke, testified that an AVR only needed to be submitted when there is a violation of the PA One Call law.

However, that is an inaccurate characterization of the exchange on cross-examination. Respondent inquired what the acronym "AVR" stood for, and Supervisor Locke testified truthfully and accurately that it stood for Alleged Violation Report. She did not provide a legal opinion that an AVR was only required to be submitted when there is a violation of the PA One Call Law.⁵

⁴ The timeframe for submitting an AVR has since been changed to 30 days.

⁵ Hearing Tr. p. 27, 15-25. The transcript of the November 12, 2025, hearing was not available for I&E or Respondent to reference by the due date of the Main Briefs. Therefore, paraphrasing the trial testimony was used in place of exact citation to the transcript at the time the Main Briefs were filed.

In any event, a plain reading of Section 180(16) of the PA One Call Law requires that an excavator inform the Commission by way of an AVR of any line strike **or** any other violation in connection with the excavation, even if no line strike occurs. This provision also provides a time frame in which to submit the AVR. Here, Respondent did not submit its AVR within that statutorily-prescribed time frame after it struck a line. Therefore, Respondent violated Section 180(16) of the PA One Call Law, 73 P.S. § 180(16).

VI. CONCLUSION

I&E respectfully requests that presiding ALJ Farren and the Commission sustain I&E's Complaint.

Respectfully submitted,



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Dated: December 12, 2025

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Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day, December 12, 2025, served a true copy of the foregoing **Reply Brief of the Bureau of Investigation and Enforcement**, upon the party listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Service by Electronic Mail:

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