

NOTICE OF COMPLAINT

- A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Letter for this Complaint and Notice, 52 Pa. Code §1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer should raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original **mailed to:**

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Or you may **eFile your Answer** using the Commission's website at www.puc.pa.gov. The link to eFiling is located under the Filing and Resources tab on the homepage. If your Answer exceeds 250 pages, you must also file a paper copy with the Secretary's Bureau.

In addition to filing your Answer with the Commission's Secretary, a copy should either be

Mailed to: Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street, 3W
Harrisburg, PA 17120

Or, E-mailed to: RA-PCCmplntResp@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 a Secretarial Letter imposing a penalty. The penalty could include a civil penalty, the suspension or revocation of your operating authority, or other such remedy.
- C. You may elect not to contest this Complaint by paying the civil penalty required in this Complaint by certified check or money order. **Payment must be made to "Commonwealth of Pennsylvania"** and should be forwarded to:

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

- D. Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of your payment, the Complaint proceeding shall be closed.
- E. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue a Secretarial Letter imposing a civil penalty and/or other such remedy.
- F. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge (ALJ) for hearing and decision. The ALJ is not bound by the requested civil penalty.
- 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	:	
	:	
V.	:	DOCKET NO. C-2026-3053845
	:	
HERBERT EXCAVATING LLC	:	
10979 STATE ROUTE 106	:	
KINGSLEY, PA 18826	:	

COMPLAINT

The Pennsylvania Public Utility Commission (Commission or “PUC”) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Investigation and Enforcement and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Investigation and Enforcement -Motor Carrier Division hereby represents as follows:

1. That HERBERT EXCAVATING LLC, Respondent, maintains a principal place of business at 10979 State Route 106, Kingsley PA 18826.
2. That on February 28, 2025, by Commission Secretarial Letter, Respondent was issued a certificate of public convenience by this Commission authorizing transportation, as a common carrier, by motor vehicle, property, excluding household goods in use, between points in Pennsylvania.at Application Docket No. A-2025-3053475, PUC Utility Code 8927741.
3. That PUC Enforcement Officer Kevin Kistulentz was assigned to conduct a Safety Fitness Review (“SFR”). Throughout October of 2025 Officer Kistulentz initiated a series of attempts to contact the Respondent via telephone and email, receiving no response.
4. That on or about October 24, 2025, a letter was mailed to Respondent via first-Class Mail urging compliance with the 180-day requirement in receiving a satisfactory SFR rating. The letter provided a 5-day deadline for Respondent to schedule an SFR. The letter was not returned as undeliverable.
5. That on or about November 13, 2025, a copy of the letter was mailed to Respondent via Certified Mail.
6. That on or about November 19, 2025, the certified mailing was returned to the Commission by the postal authorities as being “unclaimed” and “unable to forward”.
7. That Respondent is obligated to promptly apprise the Commission of changes to its current address, pursuant to 52 Pa. Code §1.53(d).
8. That Respondent, by failing to appear for a review and achieve a satisfactory SFR evaluation while certificated by this Commission as a common carrier, violated 66 Pa. C.S. §§501(c),504. The penalty for these violations is cancellation of the certificate held by Respondent with this Commission at PUC Utility Code 8927741.

WHEREFORE, the Bureau of Investigation and Enforcement hereby requests that the Commission revoke the certificate of public convenience issued to HERBERT EXCAVATING LLC, at PUC Utility Code 8927741.

Respectfully submitted,



Brian B. Mehus, Chief
Motor Carrier Enforcement
Bureau of Investigation and Enforcement
400 North Street 2nd Floor
Harrisburg, PA 17120

VERIFICATION

I, Brian B. Mehus, 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 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.



Brian B. Mehus, Chief
Motor Carrier Enforcement
Bureau of Investigation and Enforcement

Date: 24 February 2026