

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bureau of Investigation and Enforcement	:	
	:	
v.	:	C-2025-3056912
	:	
Nyce Construction Services, Inc.	:	

INITIAL DECISION

Before
Emily A. Farren
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Formal Complaint filed by the Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement against Nyce Construction Services, Inc. for violations of the PA One Call Law, 73 P.S. §§ 176-186, relating to excavation activities that occurred on October 10, 2024.

HISTORY OF THE PROCEEDING

On August 18, 2025, the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission) filed a Formal Complaint (Complaint) against Nyce Construction Services, Inc. (Nyce). I&E alleged that Nyce violated the PA One Call Law in connection with an incident that occurred on October 10, 2024, when “NYCE was excavating by digging a trench with powered equipment to

install a gas mainline in a new construction community housing development on Fountain View Circle in Upper Macungie Township, Lehigh County.” Complaint ¶ 14.

I&E requested that the Commission find Nyce in violation of the PA One Call Law; impose a cumulative administrative penalty on Nyce in the amount of \$3,500; order Nyce to attend online compliance training through the Pennsylvania One Call System; and order such other remedies the Commission deems appropriate.

On September 8, 2025, Kevin Fogerty, Esquire, entered his appearance on behalf of Nyce. Also on September 8, 2025, Nyce filed its Answer to the Complaint which admitted or denied the various material allegations of the Complaint. Specifically, Nyce denied that the events that transpired on October 10, 2024, violated the PA One Call Law. Answer ¶¶ 24, 36. Without an underlying One Call Law violation, Nyce asserted no administrative penalty was warranted or appropriate. Answer ¶¶ 35, 36. A Verification, signed by Shaun Froshour, Estimator and Project Manager for Nyce Construction Services, Inc., appropriately accompanied the Answer.

By Hearing Notice dated September 19, 2025, an Initial In-Person Hearing was scheduled for November 12, 2025, and the matter was assigned to me.

A Prehearing Order was issued and served on September 19, 2025, reminding the parties of the date and time of the scheduled hearing, and informing them of the procedures applicable to this proceeding.

On November 12, 2025, the hearing convened as scheduled. Grant Rosul, Esquire, appeared on behalf of I&E and presented the testimony of one witness, Sara Locke, Damage Prevention Supervisor. Ms. Locke sponsored three exhibits, which were admitted into the record. Kevin Fogerty, Esquire, appeared on behalf of Nyce and

presented the testimony of one witness, Shaun Froshour, Estimator and Project Manager. Mr. Froshour sponsored eight exhibits, which were admitted into the record.

The following exhibits were admitted at the hearing:

- I&E Exhibit 1 – 2/2/24 Pennsylvania One Call System Ticket
- I&E Exhibit 2 – 3/20/24 Pennsylvania One Call System Ticket
- I&E Exhibit 3 – 9/20/24 Pennsylvania One Call System Ticket
- Respondent Exhibit 1 – 2/2/24 Pennsylvania One Call System Ticket Email Confirmation
- Respondent Exhibit 2 – 3/20/24 Pennsylvania One Call System Ticket Email Confirmation
- Respondent Exhibit 3 – 5/12/23 Pennsylvania One Call System Ticket Email Confirmation
- Respondent Exhibit 4 – 9/20/24 Pennsylvania One Call System Ticket Email Confirmation
- Respondent Exhibit 5 – Overhead photo of construction site
- Respondent Exhibit 6 – Map of Hidden Meadows
- Respondent Exhibit 7 – Two photos of damage to electrical conduit
- Respondent Exhibit 8 – Email exchanges between Damage Prevention Section and Nyce Construction Services, Inc.

During the hearing, both Parties presented issues I determined incited questions of law. To allow Parties the opportunity to fully address the legal arguments raised, I issued an Interim Order setting a briefing schedule in this matter.

On December 3, 2025, I&E and Nyce filed briefs.

On December 12, 2025, I&E and Nyce filed reply briefs.

The record consists of the 88-page transcript and 11 exhibits.

FINDINGS OF FACT

1. Complainant is the Bureau of Investigation and Enforcement, the prosecutorial arm of the Commission.

2. Respondent is Nyce Construction Services, Inc.

3. Sara Locke is the Damage Prevention Supervisor of the Damage Prevention Section of the Bureau of Investigation and Enforcement. Tr. 8.

4. Ms. Locke's duties include reviewing all the damage prevention cases and maintaining the Commission's damage prevention records. Tr. 8.

5. Prior to becoming the Damage Prevention Supervisor in February 2020, Ms. Locke was a Damage Prevention Section Investigator. Tr. 9.

6. Ms. Locke completes annual training with the Pennsylvania One Call System. Tr. 9.

7. Shaun Froshour is an Estimator and Project Manager for Nyce Construction Services, Inc. and has been a Nyce employee for approximately 16 years. Tr. 34.

8. Mr. Froshour has worked in the construction industry for 30 years total. Tr. 34.

9. Mr. Froshour has taken various online based and in-person training programs provided by the Pennsylvania One Call System, including training on how to submit One Call tickets or locate requests via the One Call's website. Tr. 35.

10. Mr. Froshour was the project manager for the work performed by Nyce for Hidden Meadows, a new cul-de-sac housing subdivision in Upper Macungie Township, Lehigh County, Pennsylvania. Tr. 34-36.

11. Nyce was hired by Sal Lapio Homes to clear the existing vegetation, excavate trenches or a common trench for natural gas and electric utilities, and install storm sewer, sanitary sewer, domestic water, road, curb and sidewalks for Hidden Meadows. Tr. 38, 49-50, 56; Respondent Exh. 6.

12. A common trench is one ditch that both facilities are placed in. Tr. 58.

13. Nyce was responsible for excavating the trench, placing stone bedding and, after electric and gas subcontractors installed the electrical conduit and gas main, placing additional stone material over top of the installed utilities for protection and backfilling the trench. Tr. 49.

14. Nyce, through Mr. Froshour, submitted a locate request through the Pennsylvania One Call System on May 12, 2023, for excavation work to be done for new houses in Hidden Meadows, with an expected duration of one year. Tr. 38; Respondent Exh. 3.

15. Due to unforeseen circumstances on the project, there was a pause in construction activity, so the excavation work performed by Nyce was inactive for a period. Tr. 39.

16. In anticipation of restarting excavation activity, Nyce, by Mr. Froshour, submitted a locate request through the Pennsylvania One Call System on February 2, 2024, for excavation work to be done for Hidden Meadows Phase 3 with an expected duration of one year. Tr. 39-41; Respondent Exh. 1.

17. The lawful start dates for the locate request submitted on February 2, 2024, were February 7, 2024 through February 16, 2024. Tr. 16; Respondent Exh. 1.

18. The duration of the locate request submitted on February 2, 2024, was one year. Tr. 16; Respondent Exh. 1.

19. Nyce, by Mr. Froshour, submitted a locate request through the Pennsylvania One Call System on March 20, 2024, for excavation work to be done to install a new water main in Hidden Meadows with an expected duration of two weeks. Respondent Exh. 2.

20. Nyce, by Mr. Froshour, submitted a locate request, as a renotification to facility owners, through the Pennsylvania One Call System on September 20, 2024, for excavation work to be done to install electric service in Hidden Meadows with an expected duration of two weeks. Tr. 44-48; Respondent Exh. 4.

21. As of October 9, 2024, while Nyce began digging the common trench on Fountain View Circle, traveling towards the cul-de-sac, there were no utilities in the ground. Tr. 57; Respondent Exhs. 5, 6.

22. As Nyce created the common trench, subcontractors for PPL and UGI followed to physically install the electrical conduit and gas main, respectively, to ultimately tie into existing underground electric and gas lines at Werley Road. Tr. 41-46, 54-58.

23. As of the end of the working day on October 9, 2024, the subcontractor for PPL ran some electrical conduit in the common trench on Fountain View Circle, but the gas subcontractor had not yet installed gas main as far as the electrical conduit ran. Tr. 64.

24. At the end of the working day, for safety reasons and access for drains, Nyce loosely backfills excavated trenches. Tr. 56.

25. On October 10, 2024, Mr. Froshour, as the project manager on site, met with the Nyce employee operating the excavator to review the planned work activity for the day. Tr. 58.

26. The October 10, 2024 planned work activity included removing the prior day's loose backfilling to allow for the continuation of installation of electrical conduit and gas main in the common trench. Tr. 58, 63.

27. On October 10, 2024, Nyce's employee operating the excavator began to remove the backfill he placed the day before when he struck the electrical conduit run by PPL's subcontractor on October 9, 2024. Tr. 63-64; Respondent Exh. 7.

28. On October 10, 2024, the electrical conduit was not connected, energized or dedicated to the utility company. Tr. 54.

29. Mr. Froshour immediately reported the incident to Sal Lapio Homes (the site owner) and the PPL subcontractor who was onsite installing the electrical conduit in the common trench. Tr. 65.

30. On December 19, 2024, Nyce submitted an alleged violation report in response to the notification Nyce received that the Commission was performing an investigation. Tr. 68.

DISCUSSION

Burden of Proof

Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, the complainant must show that the respondent is responsible or accountable for the problem described in the complaint. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990). A preponderance of the evidence is established by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). The offense must be a violation, or claimed violation, of any law which the commission has jurisdiction to administer. 66 Pa.C.S. § 701. I&E has the burden of proof in this proceeding as the party seeking relief. 66 Pa.C.S. § 332(a).

If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the respondent. If a respondent does not rebut that evidence, the complainant will prevail. If the respondent rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the respondent's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on the complainant. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001); *see also Burlison v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa.C.S. § 704. Substantial evidence has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Bethenergy Mines, Inc. v. Workmen's Comp. Appeal Bd.*, 612 A.2d 434 (Pa. 1992). More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Dep't. of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984). "[O]pinions and conclusions cannot be relied upon as substantial evidence in a decision by this agency." *Norman v. Phila. Gas Works*, Docket No. C-2018-2640719 at 30 (Opinion and Order entered Oct. 7, 2021) (*Norman*).

PA One Call Law

The PA One Call Law authorized the Commission to enforce the Act's provisions and to, *inter alia*, hear and determine complaints arising from the rejection of an informal determination issued by the Pennsylvania Damage Prevention Committee

against excavators for violations of the PA One Call Law. 73 P.S. §§ 182.8(c), (d), 182.10. Additionally, the PA One Call Law authorizes the Commission's prosecutorial staff, I&E, to bring a formal complaint against entities subject to the PA One Call Law. 73 P.S. § 182.8(c)(2).

Relevant here, the PA One Call Law establishes the following requirements for excavators, in part:

It shall be the duty of each excavator who intends to perform excavation or demolition work within this Commonwealth:

...

(2.1) To request the location and type of facility owner lines at each work site by notifying the facility owner through the One Call System. Notification shall be not less than three nor more than ten business days in advance of beginning excavation or demolition work. No work shall begin earlier than the lawful start date which shall be on or after the third business day after notification. The lawful start date shall exclude the date upon which notification was received by the One Call System and notification received on a Saturday, Sunday or holiday, which shall be processed on the following business day. In the case of a complex project, notification shall not be less than ten business days in advance of the beginning of excavation or demolition work.

(2.2) To provide the One Call System with exact information to identify the work site so that facility owners might provide indications of their lines. An excavator shall be deemed to have met the obligations of clause (2.1) if he calls the One Call System, provides the work site and other required information and receives a serial number.

...

(16) To submit a report of an alleged violation to the commission through the One Call System not more than thirty days after striking or damaging a facility owner's line during excavation or demolition or if the excavator believes

a violation of this act has been committed in association with excavation or demolition work. The report of an alleged violation shall be in a form and manner as required by the commission.

...

(20) To renotify the One Call System of an unmarked or incorrectly marked facility, if an original, proper locate request has been made to the One Call System and, upon initial arrival at the proposed work site, it is apparent to the excavator that there is an unmarked or incorrectly marked facility. . . .

73 P.S. § 180, 180(2.1), (2.2), (16), (20).

The PA One Call Law defines “line” or “facility,” in relevant part, as:

“Line” or “facility” means an underground conductor or underground pipe or structure used in providing electric . . . 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.

Analysis

Count 1

I&E

I&E alleged that Nyce “failed to place a valid, routine locate request ticket through the POCS [Pennsylvania One Call System] prior to digging the trench for the

installation of the gas main line on Fountain View Circle.” Complaint ¶ 35. According to I&E, the purpose of an excavator submitting a locate request ticket to the POCS is to “identify the location and type of facility owner lines at each work site.” *Id.*

At the hearing, I&E witness Locke testified the Damage Prevention Section (DPS) received an alleged violation report (AVR) from PPL about an incident that occurred on October 10, 2024.¹ Tr. 11, 29. Ms. Locke indicated that at least one party must submit an AVR for a DPS investigation to begin. Tr. 9.

Ms. Locke testified that the DPS investigation included a search of the PA One Call System (POCS), which produced “several” locate requests Nyce submitted through the POCS. Tr. 14. Ms. Locke sponsored I&E Exhibit 1 and described it as:

This is a new excavation routine ticket 20240333036 was placed February 2, 2024, for the purpose of a new house subdivision. This ticket had a duration of one year. It’s [sic] start date was February 7, 2024.

Tr. 16; I&E Exh. 1.

Ms. Locke sponsored I&E Exhibit 2 and described it as:

This is a new excavation ticket 20240801491. This ticket was placed for the purpose of installing the new water main on March 20th, 2024. Lawful start date for this ticket is March 25th, 2024[,] with the duration of two weeks.

Tr. 17; I&E Exh. 2.

¹ I&E did not, *inter alia*, introduce, nor attempt to introduce: the AVR as evidence; who authored the AVR; or any photographs, depictions, or renderings of the excavation work alleged to have occurred on Fountain View Circle.

Ms. Locke sponsored I&E Exhibit 3 and described it as:

This is notification ticket 2024642373. This ticket was placed early [sic] purpose of installing the electric service placed on September 25th, 2024. Then the start date was also September 25th, 2020 [sic] for the duration [of] two weeks.

Tr. 18; I&E Exh. 3.

I&E asserted that none of these three locate requests submitted by Nyce covered the excavation activities Nyce engaged in on October 10, 2024. Tr. 14; I&E Exhs. 1-3.

Nyce

Nyce was hired by Sal Lapio Homes to clear the existing vegetation, excavate the trenches or a common trench for natural gas and electric utilities, and install storm sewer, sanitary sewer, domestic water, road, curb and sidewalks for Hidden Meadows. Tr. 38, 49-50, 56; Respondent Exh. 6. A common trench is one ditch that both facilities are placed in. Tr. 58. Nyce was responsible for excavating the trench, placing stone bedding, and after electric and gas subcontractors installed the electrical conduit and gas main, then placing additional stone material over top of the installed utilities for protection and backfilling the trench. Tr. 49. Nyce, through Mr. Froshour, submitted a locate request² through the PA One Call System on May 12, 2023, for excavation work to be done for new houses in Hidden Meadows, with an expected duration of one year. Tr. 38; Respondent Exh. 3.

² “Locate request” means a communication or notification between an excavator or designer and the One Call System in which a request for locating facilities is processed. 73 P.S. § 176.

Due to unforeseen circumstances on the project, there was a pause in construction activity, so the excavation work performed by Nyce was inactive for a period. Tr. 39. In anticipation of restarting excavation activity, Nyce, by Mr. Froshour, submitted a locate request through the PA One Call System on February 2, 2024, for excavation work to be done for Hidden Meadows Phase 3 with an expected duration of one year. Tr. 39-41; Respondent Exh. 1. The lawful start dates for the locate request submitted on February 2, 2024, were February 7, 2024, through February 16, 2024. Tr. 16; Respondent Exh. 1. The duration of the locate request submitted on February 2, 2024, was one year. Tr. 16; Respondent Exh. 1.

Nyce, by Mr. Froshour, submitted a locate request through the PA One Call System on March 20, 2024, for excavation work to be done to install a new water main in Hidden Meadows with an expected duration of two weeks. Respondent Exh. 2.

Nyce, by Mr. Froshour, submitted a locate request, as a renotification to facility owners, through the PA One Call System on September 20, 2024, for excavation work to be done to install electric service in Hidden Meadows with an expected duration of two weeks. Tr. 44-48; Respondent Exh. 4. Mr. Froshour placed the renotification ticket on September 20, 2024, so that facility owners would re-mark the same project of his current, active ticket placed on February 7, 2024. Tr. 74; Respondent Exhs. 1, 4.

The purpose of submitting the September 20, 2024 locate request was so that facility owners would identify existing underground utilities in the area to execute the Hidden Meadows Phase 3 plan to tie into existing gas and electric lines at Werley Road. Tr. 41-46; Respondent Exhs. 4, 5, 6.

As of October 9, 2024, while Nyce began digging the common trench on Fountain View Circle, traveling towards the cul-de-sac, there were no utilities in the ground. Tr. 57; Respondent Exhs. 5, 6. As Nyce created the common trench,

subcontractors for PPL and UGI followed to physically install the electrical conduit and gas main, respectively, to ultimately tie into existing underground electric and gas lines at Werley Road. Tr. 41-46, 54-58. As of the end of the working day on October 9, 2024, the subcontractor for PPL ran some electrical conduit in the common trench on Fountain View Circle, but the gas subcontractor had not yet installed gas main as far as the electrical conduit ran. Tr. 64. At the end of the working day, for safety reasons and access for drains, Nyce loosely backfills excavated trenches. Tr. 56.

On October 10, 2024, Mr. Froshour, as the project manager on site, met with the Nyce employee operating the excavator (Operator³) to review the planned work activity for the day. Tr. 58. The October 10 planned work activity included removing the prior day's loose backfilling to allow for the continuation of installation of electrical conduit and gas main in the common trench. Tr. 58, 63. Mr. Froshour credibly testified that he warned the Operator that electrical conduit was installed the previous day. Tr. 63. Mr. Froshour credibly testified that he physically walked the location with the Operator, who was the same Operator who backfilled the common trench the previous day. Tr. 70.

On October 10, 2024, Nyce's Operator began to remove the backfill he placed the day before, when he struck the electrical conduit ran by PPL's subcontractor on October 9, 2024. Tr. 63-64; Respondent Exh. 7. The electrical conduit was not connected, energized or dedicated to the utility company. Tr. 54. Mr. Froshour immediately reported the incident to Sal Lapio Homes (the site owner) and the PPL subcontractor who was onsite installing the electrical conduit in the common trench. Tr. 65.

³ "Operator" means any individual in physical control of powered equipment or explosives when being used to perform excavation or demolition work. 73 P.S. § 176.

Disposition

There is no dispute Nyce is an excavator within the definition of the PA One Call Law. 73 P.S. § 176.⁴ As an excavator, Nyce must comply with the duties found in Section 180 of the PA One Call Law. 73 P.S. § 180. Relevant here, I&E asserted Nyce’s duty on October 10, 2024, was to comply with Section 180(2.1) of the PA One Call Law, that is, “to request the location and type of facility owner lines at each work site by notifying the facility owner through the One Call System.” 73 P.S. § 180(2.1).

Despite the February 2, 2024 locate request and the September 25, 2024 locate request renotification, I&E alleged that Nyce failed to comply with its duty under Section 180(2.1) of the PA One Call Law to submit a locate request for “gas excavation.” 73 P.S. 180 § (2.1); Tr. 14. I&E reasoned, “[t]he scope of work is particularly important for gas and electric lines because the facility owners also have the right, if they know someone’s going to be in their – lines, to view that excavation, particularly where an excavation may tap into their existing lines.” Tr. 20.

Following I&E’s testimony at the hearing, counsel for Nyce orally motioned that this matter be dismissed based on I&E’s failure to present a *prima facie* case. Tr. 31-32. Mr. Fogerty summarized I&E’s case as being based off three printouts. Tr. 31. I explained that I would provide a discussion of his motion to dismiss in this Initial Decision. Tr. 32. Without waiving Nyce’s position that I&E failed to present a *prima facie* case, Nyce presented its witness, Mr. Froshour. Tr. 32-76.

⁴ “Excavator” means any person who or which performs excavation or demolition work for himself or for another person. 73 P.S. § 176.

To establish a sufficient case and satisfy the burden of proof here, I&E must show that Nyce failed to request the location and type of facility owner lines at its October 10, 2024, work site in Hidden Meadows Phase 3. *Patterson; Feinstein*. I&E's showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc.*

I agree with Nyce that I&E failed to present a *prima facie* case that Nyce violated Section 180(2.1) of the PA One Call Law, 73 P.S. § 180(2.1). This is because: (1) I&E's own exhibits are *three* locate requests submitted by Nyce; and (2) I&E presented *no* admissible testimony that explained how Nyce failed, in violation of Section 180(2.1), "to request the location and type of facility owner lines at each work site by notifying the facility owner through the One Call System," for work completed by Nyce on October 10, 2024. *See* I&E Exhs. 1-3; Tr. 8-29, *generally*.

Instead, I&E seemingly alleged that Nyce violated Section 180(2.1) of the PA One Call Law, 73 P.S. § 180(2.1), simply because DPS's investigation did not produce a record of a locate request that specifically stated "gas excavation" as the type of work to be completed. Tr. 14. Yet, I&E presented no competent⁵ evidence that Nyce engaged in "gas excavation," or explained why I&E deemed Nyce's February 2, 2024 or September 25, 2024 locate requests inadequate. *See generally* Tr. 8-30.

I&E's reasoning that "[t]he scope of work is particularly important for gas and electric lines because the facility owners also have the right, if they know someone's

⁵ Upon presentation of direct testimony and cross-examination of I&E's witness, I sought clarification of I&E's theory of what occurred on October 10, 2024. I&E's witness responded to my question as follows: "[w]e received a report—an alleged violation for PP&L that on October 10th, 2024[,] Nyce had struck their electric line during the course of an excavation for a gas line installation. Tr. 29. I&E's witness did not testify to any discoveries made during the course of its investigation that confirmed the allegations contained in the AVR. I&E did not introduce nor attempt to introduce the AVR as evidence in this matter. I&E did not produce as a witness the person who submitted the AVR on behalf of PPL.

going to be in their – lines, to view that excavation, particularly where an excavation may tap into their existing lines,”⁶ is neither evidence of Nyce’s wrongdoing nor an accurate summary of the duties of facility owners that arise when an excavator submits a locate request.⁷ As the Commission explained, “opinions and conclusions cannot be relied upon as substantial evidence in a decision by this agency.” *Norman*.

Moreover, the evidence I&E presented demonstrates that the same facility owners received both the February 2, 2024, and the September 25, 2024 locate requests to mark their underground lines or facilities. *Compare* I&E Exh. 1 at 1 and I&E Exh. 3 at 1, 2. In other words, the work sites identified in both locate requests provided all facility owners in the work site area (including electric and gas) with appropriate notice of the planned excavation. Specifically, “PPL ELEC LEHGH” and “UGI LEHIGH HAZ.” *Id.*

Taken in sum, I&E failed to present a *prima facie* case that Nyce violated Section 180(2.1) of the PA One Call Law, 73 P.S. § 180(2.1).

Nevertheless, for the sake of completeness of this Initial Decision; to recognize Nyce’s presentation of witness Froshour and the exhibits Mr. Froshour sponsored; and assuming *arguendo* I&E presented a *prima facie* case, I provide the following analysis.

⁶ Tr. 20.

⁷ While Section 180(2.1) places the duty of submitting a locate request on an excavator, Section 177 places duties on facility owners, to, *inter alia*, “after receipt of a timely request from an excavator or operator who identifies the work site of excavation or demolition work he intends to perform and not later than the business day prior to the lawful start date of excavation: (i) [t]o mark, stake, locate or otherwise provide the position of the facility owner’s underground lines at a work site” 73 P.S. § 177(5)(i). Plainly stated, the duty of locating underground lines, whether it be gas, electric, water, etc., falls on the facility owner once a locate request is submitted.

If I&E established a *prima facie* case, the burden of going forward with the evidence shifted to Nyce.

Respondent's evidence demonstrates that, Nyce, as an excavator responsible for complying with the duties set forth in Section 180(2.1) of the PA One Call Law, met that duty on February 2, 2024, when Mr. Froshour submitted a locate request through the PA One Call System for excavation work to be done for Hidden Meadows Phase 3 with an expected duration of one year. 73 P.S. § 180(2.1); Tr. 39-41; Respondent Exh. 1.

The duration of the locate request submitted on February 2, 2024, was one year. Tr. 16; Respondent Exh. 1. October 10, 2024, the day of the incident at the crux of this matter, fell within the duration of one year that began on and after the lawful start date of the locate request submitted on February 2, 2024.

Moreover, Nyce, in accordance with Section 180(20) of the PA One Call Law, met its duty to renotify the POCS on September 25, 2024, when Mr. Froshour submitted a locate request, as a renotification to facility owners, through the PA One Call System on September 20, 2024, for excavation work to be done to install electric service in Hidden Meadows with an expected duration of two weeks. 73 P.S. § 180(20); Tr. 18-20, 44-48; I&E Exh. 3; Respondent Exh. 4. The lawful start dates for this renotification ticket were September 25, 2024, through October 4, 2024, for a duration of two weeks. I&E Exh. 3. Again, the day of the incident, October 10, 2024, fell within two weeks after the end of the lawful start dates.

Mr. Froshour explained why the September 25, 2024 locate request identified installation of electric service during cross-examination. The following exchange occurred between counsel for I&E and Mr. Froshour:

Q. I would just like to turn your attention to what has been marked as Respondent's Exhibit 4, R-4. That is the ticket ending in 2373. It says that you're the one who placed the ticket. Is that accurate?

A. That's correct.

Q. Okay. And then under type of work, it says install electric services. You had mentioned that you were – dig the same trench for the electric and gas lines. Is that accurate?

A. Yes.

Q. Why did you not just say that you were also excavating to install the electric and gas in the ticket?

A. It simply didn't occur to me that it was necessary to expand that much information.

Q. Okay.

A. They were – they were going to mark the areas that are requested regardless of the type of facility that I was actually installing.

Tr. 66-67.

Finally, Nyce's actions of submitting not one, not two, not three, but *four* locate requests spanning the time of May 12, 2023, through September 25, 2024, regarding excavation work to be completed for Hidden Meadows, demonstrates Nyce's understanding and commitment to its duties under the PA One Call Law as an excavator. Tr. 35; I&E Exhs. 1-3; Respondent Exhs. 1-4.

Having presented sufficient evidence to rebut I&E’s case, the burden of production shifted back to I&E.

I&E presented no testimony or evidence that alleges, demonstrates or even suggests the locate request submitted on February 2, 2024, for the duration of one year was no longer a valid locate request for the common trenching performed by Nyce on October 10, 2024. *See* I&E Exh. 1; Tr. 8-30. I&E presented no testimony or evidence that demonstrates the locate request renotification submitted on September 25, 2024, was not a valid locate request for the common trenching performed by Nyce on October 10, 2024. *See* I&E Exh. 3; Tr. 8-30. I&E presented no testimony or evidence that demonstrates Nyce excavated in an area other than the work site⁸ identified in the September 25, 2024 locate request. *Id.*

While I&E raised a concern regarding Nyce’s failure to complete the “type of work” section of the September 25, 2024 locate request to include “and gas,” I&E’s concern does not amount to the conclusion that Nyce failed to submit a locate request for the excavation work completed on October 10, 2024, given that the locate request adequately identified: the work site area; gas and electric facility owners received notification of the locate request; the extent of the excavation, the depth of the excavation, the method of excavation, the equipment type, and the lawful start dates of the excavation. *See* I&E Exh. 3.

⁸ “Work site” means the specific place denoted on the locate request where excavation or demolition work is being or is planned to be performed. A work site should be denoted as a clearly defined, bounded area, including relevant identifiable points of reference such as the specific address with a specific description such as N, S, E W or variants. Where possible, the points should also reference, without limitation, the size and radius or circumference of the excavation, utility pad or pedestal numbers, utility pole numbers, landmarks, including trees, fountains, fences, railroads, highway and pipeline markers, and latitude and longitude. 73 P.S. § 176.

Based upon the allegations presented and the specific facts established in this proceeding, I conclude Nyce did not violate Section 180(2.1) of the PA One Call Law, 73 P.S. § 180(2.1). This is because, in part, Section 180(2.2) states, “[a]n excavator shall be deemed to have met the obligations of clause (2.1) if he calls the One Call System, provides the work site and other required information and receives a serial number.” 73 P.S. § 180(2.2). Here, Nyce provided the requisite work site information on February 2, 2024, and received a serial number: 20240333036. *See* I&E Exh. 1; Respondent Exh. 1. When Nyce determined its worksite required a re-mark, Nyce submitted a locate request notification on September 25, 2024, and received a serial number: 2024642373. *See* I&E Exh. 3; Respondent Exh. 4.

The September 25, 2024 locate request submitted by Nyce specified “remark all utilities in the right of way.” Respondent Exh. 4. The PCOS ticket generated by the September 25, 2024 locate request further specified:

Attn all utilities you all responded clear no facilities. Caller states there are definitely UG [underground] utilities at this intersection that need to be marked. Please verify involvement go to the site to mark lines and update your response ASAP. Crew is on site now doing other work but cannot start this excavation until you mark those lines.

I&E Exh. 3 at 1.

This conclusion is also supported by the specific facts at hand: Nyce submitted a locate request on February 2, 2024, followed by a locate request renotification on September 25, 2024, and Nyce’s excavation work on October 10, 2024, was excavation of a common trench for the purpose of continuing the installation of new electrical conduit and gas main.⁹

⁹ The instant case is readily distinguishable from the Commission’s most recent Opinion and Order in another PA One Call matter, wherein the Commission concluded I&E met its burden of proving that an excavator violated Section 180(2.1), 73

Having concluded that I&E did not prove that Nyce violated Section 180(2.1) of the PA One Call Law, 73 P.S. § 180(2.1), Count 1 of the Complaint must be dismissed.

Count 2

I&E alleged that Nyce “failed to file an AVR [alleged violation report] not more than ten business days after striking PPL’s electric primary¹⁰ line.” Complaint ¶ 36. According to I&E, Nyce was required to file an AVR not more than 10 business days after striking a line. *Id.* I&E alleged that, if proven, Nyce’s failure to submit an AVR within ten business days constituted a violation of Section 180(16) of the PA One Call Law, 73 P.S. § 180(16).

At the hearing, when asked by counsel for I&E if she is “familiar with the allegation by I&E the Respondent failed to submit a Pennsylvania One Call ticket for its October 10, 2024 excavation to install a gas line,” Ms. Locke responded, “[y]es.” Tr. 24. When asked by counsel for I&E, “[a]nd failed to timely submit an alleged violation report after one strike,” Ms. Locke responded, “[y]es.” When asked by counsel for I&E if, “based on your knowledge and professional experience, are these violations

P.S. § 180(2.1), when: “it is uncontested that the Damage Prevention Section did not find any Routine Excavation PA One Call Tickets submitted for the August 2023 excavation work” and “MK Hauling also admitted . . . that it did not place a One Call Ticket in the System.” *Bureau of Investigation & Enforcement v. MK Hauling LLC*, Docket No. C-2025-3053287 (Opinion and Order entered Dec. 17, 2025), Opinion and Order at 16.

¹⁰ PPL Electric Utilities provides a definition of primary lines, “[p]rimary lines, or primaries, are higher-voltage lines located at the top of utility poles, above transformers. Primary wires are typically copper, aluminum and aluminum with steel-reinforced conductors. Some are coated with a protective covering but should not be considered insulated. Typical primary voltages include 7,200 volts single phase and 12,500 volts three phase.” PPL Electric Utilities, *Primary and Secondary Lines*. <https://ppl.e-smartresponders.com/topic/primary-and-secondary-lines/> (last accessed Feb. 17, 2026).

warranted,” Ms. Locke responded, “[y]es, sir.” Tr. 24. I&E witness Locke testified, “[w]e found that the excavator didn’t have a ticket specifically for the installation of gas lines and the alleged violation report was filed well more than ten business¹¹ days after the incident.” Tr. 25. Ms. Locke testified that Nyce submitted an AVR on December 19, 2024. Tr. 23.¹²

As discussed *supra*, following I&E’s presentation of its case, counsel for Nyce orally motioned that this matter be dismissed based on I&E’s failure to present a *prima facie* case. Tr. 31-32.

Analysis

I&E, as the party with the burden of proof, must show by a preponderance of the evidence that Nyce violated Section 180(16) of the PA One Call Law, 73 P.S. § 180(16). That is, that Nyce failed, “[t]o submit a report of an alleged violation to the commission through the One Call System not more than thirty days after striking or damaging a facility owner’s line during excavation or demolition or if the excavator believes a violation of this act has been committed in association with excavation or demolition work.” *Id.* Stated differently, I&E must show by a preponderance of the evidence that Nyce struck or damaged a facility owner’s line during excavation; plainly, evidence that identifies: (1) a struck or damaged line; (2) the facility owner of the struck or damaged line; and (3) the date the line was struck or damaged.

¹¹ At the time of the incident, October 10, 2024, Section 180(16) of the PA One Call Law provided that excavators must submit an AVR within “ten business days,” which changed to “thirty days,” effective October 29, 2024.

¹² “December 19th, 2020,” is a typographical error in the transcript. The AVR was submitted in the year 2024.

At the hearing, I&E laid no foundation of facts to support a *prima facie* case that Nyce violated Section 180(16) of the PA One Call Law. I&E failed to identify a struck or damaged line. I&E failed to identify the facility owner of such a struck or damaged line. As for the date of the alleged incident, the only testimony that I&E provided was a “yes” response to counsel for I&E, when he asked if she was familiar with the incident that occurred on October 10, 2024. Tr. 11. I&E’s testimony provided no further details of “the incident.”

Further, keeping in mind that more is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established and “opinions and conclusions cannot be relied upon as substantial evidence in a decision by this agency,” I&E’s testimony, “[w]e found that the excavator didn’t have a ticket specifically for the installation of gas lines and the alleged violation report was filed well more than ten business¹³ days after the incident,” is not evidence. *Norfolk; Erie; Murphy; Norman*; Tr. 25.

In sum, I&E presented *no* evidence that Nyce struck or damaged a facility owner’s line during excavation. *See generally* Tr. 8-28. Further, having found that Nyce did not violate Section 180(2.1) of the PA One Call Law, at Count 1, the duty to submit an AVR cannot hinge on I&E’s allegation that Nyce violated the PA One Call Law.

Without I&E establishing such evidence of an underlying event that triggered Nyce’s duty as an excavator to submit an AVR, I cannot conclude I&E presented a *prima facie* case as to Count 2. Assuming *arguendo* I&E presented a *prima facie* case, again, for the purpose of completeness, I offer the following.

¹³ At the time of the incident, October 10, 2024, Section 180(16) of the PA One Call Law provided that excavators must submit an AVR within “ten business days,” which changed to “thirty days,” effective October 29, 2024.

Nyce denied there was any violation of the PA One Call Law to report in an AVR. Answer ¶ 8. Nyce reasoned, in part, that the electrical conduit placed in the common ditch on October 9, 2024, did not meet the definition of “line” or “facilities,” because the conduit was not connected, energized or dedicated to the utility company, thus there was no active underground line being “used” in providing electric service.¹⁴ Answer ¶ 8.

At the hearing, Nyce established that on October 10, 2024, Nyce’s Operator began to remove the backfill he placed the day before when he struck the electrical conduit run by PPL’s subcontractor on October 9, 2024. Tr. 63-64; Respondent Exh. 7. The electrical conduit was not connected, energized or dedicated to the utility company. Tr. 54. Mr. Froshour immediately reported the incident to Sal Lapio Homes (the site owner) and the PPL subcontractor who was onsite installing the electrical conduit in the common trench. Tr. 65.

Mr. Froshour testified that he did not submit an AVR on October 10, 2024, because he “had no indication that an alleged violation had occurred.” Tr. 66. Additionally, Nyce presented email exchanges between Mr. Froshour and DPS staff, which provided further context:

We did not submit an AVR immediately because the damage was caused during the course of the actual

¹⁴ The PA One Call Law defines “lines” or “facilities” as:

[A]n underground conductor or underground pipe or structure used in providing electric . . . 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

73 P.S. § 176.

installation of the utility in question. The installation was nowhere close to completion and most certainly was not dedicated/turned over to the utility company. In the same fashion, if we accidentally damage a sewer pipe while it is being placed into the ground, we just discard that piece of pipe and install another undamaged section of pipe. Same scenario.

Respondent Exh. 8 at 1 (emphasis in original).

Ultimately, on December 19, 2024, Nyce submitted an AVR in response to the notification Nyce received that the Commission was performing an investigation. Tr. 68.

Nyce reasoned that “without a specific violation of the PA One Call Law, there is no obligation to report to the PUC via an AVR.” Tr. 81. Instead, Nyce asserted Nyce’s responsibility under the PA One Call Law to report the incident of damaging the electrical conduit, under Section 180(7), 73 P.S. § 180(7), was to report it to the property owner and the utility. Nyce asserted its duty under Section 180(7) was met on October 10, 2024, when Mr. Froshour immediately reported the incident to Sal Lapio Homes and the PPL subcontractor onsite. Tr. 65, 81.

I am persuaded that electrical conduit being placed into the ground during the new construction phase of a project differs from that of an electric line or facility that is connected to a facility owner’s infrastructure, is energized, and is dedicated as owned by a specific facility owner. This is due to the observation of the language used in Section 180(7) compared to the language used in Section 180(16), 73 P.S. § 180(7), (16); and the potential consequences of damaging electrical conduit compared to damaging an energized electric line or facility, as discussed below.

Both Sections 180(7) and 180(16) create a reporting obligation upon an excavator, in certain circumstances. 73 P.S. § 180(7), (16). The reporting obligation of Section 180(7) provides that an excavator as a duty “to report immediately to the facility owner any break or leak on its lines, or any dent, gouge, groove or other damage to such lines or to their coating or cathodic protection, made or discovered in the course of the excavation or demolition work.” 73 P.S. § 180(7). This reporting obligation specifically encompasses a broad net: “any break or leak on its lines, any dent, gouge, groove or other damage to such lines or to their coating or cathodic protection.” *Id.* Compare this broad net to Section 180(16), which provides, in relevant part, “striking or damaging a facility owner’s line.” 73 P.S. § 180(16).

The difference in consequences from the damage is also telling. In the instant case, the consequence of damaging the electrical conduit was to replace the damaged electrical conduit. *See* Respondent Exhs. 7 (photographs of the damaged conduit), 8 (when materials are damaged during construction, Nyce replaces the damaged material to continue to completion of a project). Additionally, Nyce terminated the employment of the Operator. Tr. 69-70.

In comparison, when a damaged electric line is energized, the consequences can, *inter alia*, disrupt service to customers and may otherwise be more costly. For example, in one recent case, West Penn Utilities damaged an unmarked electric line that caused a 12- to 24-hour utility service disruption to more than 51 customers, damaged landscaping and trees nearby, and resulted in an estimated total cost of damaged line and property repairs up to \$30,000. *Bureau of Investigation and Enforcement v. W. Penn Utils.*, Docket No. C-2022-3031862 (Opinion and Order entered May 18, 2023). In another recent case, Martin Enterprises damaged an underground electric service line that caused an estimated 1- to 6-hour utility service disruption to one customer and resulted in

an estimated total cost of damage to the line of up to \$5,000. *Bureau of Investigation and Enforcement v. Martin Enterprises*, Docket No. C-2025-3037845.¹⁵

Noting the differences between Section 180(7) and Section 180(16), as well considering the consequences of damaging electrical conduit during utility installation compared to the consequences of damaging energized electrical lines, I conclude that Nyce’s duty under the PA One Call Law at the time the incident occurred arose under Section 180(7), not Section 180(16). *See* 73 P.S. § 180(7), (16). Nyce met its duty under Section 180(7) on October 10, 2024, when Mr. Froshour immediately reported the incident to Sal Lapio Homes and the PPL subcontractor onsite. Tr. 65, 81.

Finally, I note that on December 19, 2024, Nyce submitted an AVR in response to the notification Nyce received that the Commission was performing an investigation, in addition to responding to email correspondence from the DPS. Respondent Exh. 8; Tr. 68. These actions are further evidence of Nyce’s compliance with the PA One Call Law, specifically Section 180(17), “[t]o comply with all requests for information by the commission relating to the commission’s enforcement authority under this act” 73 P.S. § 180(17).

Conclusion

Having failed to meet its burden of proving that Nyce Construction Services, Inc., violated the PA One Call Law, at Count 1 or Count 2, based upon the specific allegations made and the totality of the evidence presented in this proceeding, I&E’s Complaint must be dismissed.

¹⁵ A Certificate of Satisfaction was received by the Commission on Feb. 23, 2023.

Although Section 182.10 of the PA One Call Law, 73 P.S. § 182.10(b)(2), provides factors to determine the appropriateness of an administrative penalty, such an analysis is not necessary or warranted here, given the conclusion above.

CONCLUSIONS OF LAW

1. The Pennsylvania Public Utility Commission is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate, *inter alia*, excavators, within the Commonwealth pursuant to the PA One Call Law, Act of October 30, 2017, P.L. 806, No. 50, 73 P.S. §§ 176-186.

2. Sections 182.8(c), (d) and 182.10 of the PA One Call Law, 73 P.S. §§ 182.8(c), (d), 182.10, authorize the Commission to, *inter alia*, hear and determine complaints, arising from the rejection of an informal determination issued by the Pennsylvania Damage Prevention Committee, against excavators 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), 182.10.

3. Section 182.8(c)(2) of the PA One Call Law 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).

4. The burden of proof in this proceeding is upon the Complainant, Bureau of Investigation and Enforcement. 66 Pa.C.S. § 332(a).

5. A complainant must show that the respondent is responsible or accountable for the problem described in the complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (Opinion and Order entered Feb. 8, 1990);

Feinstein v. Phila. Suburban Water Co., 50 Pa.P.U.C. 300 (Opinion and Order entered Oct. 6, 1976).

6. Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

7. A preponderance of the evidence is established by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

8. The offense must be a violation in violation, or claimed violation, of any law which the commission has jurisdiction to administer. 66 Pa.C.S. § 701.

9. Any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993), 2 Pa.C.S. § 704.

10. The decision of the Commission must be supported by substantial evidence or evidence that a reasonable mind might accept as adequate to support a conclusion. *Bethenergy Mines, Inc. v. Workmen's Comp. Appeal Bd.*, 612 A.2d 434 (Pa. 1992).

11. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. 2 Pa.C.S. § 704; *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1961); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

12. As the Commission explained, “opinions and conclusions cannot be relied upon as substantial evidence in a decision by this agency.” *Norman v. Phila. Gas Works*, Docket No. C-2018-2640719 at 30 (Opinion and Order entered Oct. 7, 2021).

13. Section 180 of the PA One Call Law imposes duties on excavators who perform excavation or demolition work in the Commonwealth. 73 P.S. § 180.

14. Excavators are subject to the authority of this Commission pursuant to Section 182.10 of the PA One Call Law, which requires excavators to comply with the PA One Call Law. 73 P.S. § 182.10.

15. Section 180(2.1) of the PA One Call Law requires an excavator to “submit a locate request to identify the location and type of facility owner lines at each work site by notifying the facility owner through the One Call System. Notification shall be not less than three nor more than ten business days in advance of beginning excavation or demolition work.” 73 P.S. § 180(2.1).

16. Section 180(2.2) of the PA One Call Law requires an excavator to “provide the One Call System with exact information to identify the work site so that facility owners might provide indications of their lines. An excavator shall be deemed to have met the obligations of clause (2.1) if he calls the One Call System, provides the work site and other required information and receives a serial number.” 73 P.S. § 180(2.2).

17. Nyce, as an excavator, met its duty to submit a locate request for excavation work performed on October 10, 2024, when: Nyce submitted a locate request on February 2, 2024, and received a serial number; and Nyce submitted a locate request on September 25, 2024, and received a serial number. 73 P.S. § 180(2.1), (2.2); I&E Exhs. 1, 3; Respondent Exhs. R-1, R-4.

18. Section 180(7) of the PA One Call Law requires an excavator “to report immediately to the facility owner any break or leak on its lines, or any dent, gouge, groove or other damage to such lines or to their coating or cathodic protection, made or discovered in the course of the excavation or demolition work.” 73 P.S. § 180(7).

19. Nyce complied with Section 180(7) of the PA One Call Law, when: on October 10, 2024, Mr. Froshour immediately reported the incident to Sal Lapio Homes and the PPL subcontractor onsite. 73 P.S. § 180(7).

20. Section 180(17) of the PA One Call Law requires an excavator “[t]o comply with all requests for information by the commission relating to the commission’s enforcement authority under this act” 73 P.S. § 180(17).

21. Nyce complied with Section 180(17) of the PA One Call Law when: Nyce filed an Alleged Violation Report in response to the notification that the Commission was performing an investigation, in addition to responding to email correspondence from the Damage Prevention Section. 73 P.S. § 180(17).

22. The Bureau of Investigation and Enforcement failed to sustain its burden of proof as to its Formal Complaint.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission, *Bureau of Investigation and Enforcement v. Nyce Construction Services, Inc.*, at Docket No. C-2025-3056912, is dismissed.

2. That the Secretary's Bureau shall mark this proceeding, at Docket No. C-2025-3056912, closed.

Date: March 4, 2026

_____/s/
Emily A. Farren
Administrative Law Judge