



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

March 24, 2026

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 Exceptions

Dear Secretary Homsher:

Enclosed for electronic filing are the Exceptions of the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please do not hesitate to contact me.

Sincerely,

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

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

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Enclosures

cc: Per Certificate of Service
Stephanie M. Wimer, Chief Deputy Prosecutor, I&E-Enf (via email – stwimer@pa.gov)
Administrative Law Judge Emily A. Farren (via email – efarren@pa.gov)
Office of Special Assistants (via email – ra-OSA@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 | : | |

**EXCEPTIONS OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

Grant Rosul
Prosecutor
PA Attorney ID No. 318204

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Dated: March 24, 2026

I. INTRODUCTION

On August 18, 2025, the Commission’s Bureau of Investigation and Enforcement (“I&E”) filed a Formal Complaint against NYCE Construction Services, Inc. (“Respondent”), alleging two violations of the Underground Utility Line Protection Law (“One Call Law”) in that: (1) Respondent failed to submit a locate request through the Pennsylvania One Call System (“POCS”) that identified the type of facility owner lines at the site of the excavation work that Respondent performed on October 10, 2024;¹ and (2) Respondent failed to timely submit an alleged violation report (“AVR”) after it struck an electric line owned by PPL Electric Utilities Corporation (“PPL”).²

On September 2, 2025, Respondent filed its Answer to I&E’s Complaint. On November 12, 2025, an evidentiary hearing was held in this matter, in which I&E presented the testimony of one witness, Sara Locke, the Supervisor of I&E’s Damage Prevention Section. Respondent also presented the testimony of one witness, Shaun Froshaur, Respondent’s project manager at the excavation site on the day of the line strike. On December 3, 2025, I&E and Respondent submitted their respective Main Briefs. On December 12, 2025, I&E and Respondent submitted Reply Briefs.

On March 4, 2026, Administrative Law Judge Emily A. Farren (“ALJ”) issued the Initial Decision in the instant proceeding. The Initial Decision denies the Formal Complaint filed on August 18, 2025, (“Complaint”) by I&E. The Initial Decision included 30 findings of fact and 22 conclusions of law.

¹ 73 P.S. § 180(2.1).

² Under the version of the One Call Law in effect at the time of the excavation, Respondent was required to file an AVR not more than 10 business days after the strike to PPL’s electric line. Act of October 30, 2017, P.L. 806 No. 50 § 3, 73 P.S. § 180(16).

These Exceptions are filed pursuant to 52 Pa. Code § 5.533. The Commission should reject the ALJ’s Initial Decision as the substantial evidence in this fully litigated matter, in conjunction with a proper interpretation of the One Call Law, demonstrates that Respondent’s One Call Tickets did not cover its excavation activity on October 10, 2024 and Respondent did not submit an AVR after it struck PPL’s line. Accordingly, I&E requests that the Commission impose an administrative penalty upon Respondent for these two violations of the One Call Law.

“On review of the initial decision, the Commission has all the powers which it would have in making the initial decision.”³ The Commission, not the administrative law judge, is the ultimate fact finder in proceedings before it, and is charged with the responsibility of considering all relevant evidence and of determining the weight of the evidence, the credibility of witnesses, and the reliability of estimates and opinions.⁴ Once exceptions are filed to an ALJ’s Initial Decision, the Commission may review the ALJ’s decision in its entirety without limit.⁵ Thus, the Commission has full authority to disregard the initial decision of the administrative law judge and overrule it if the Commission reaches a contrary result.⁶

II. I&E EXCEPTIONS

I&E respectfully submits that the Initial Decision erred in ruling that I&E did not present a *prima facie* case that Respondent violated two One Call provisions in connection with an October 10, 2024, line strike in Upper Macungie Township, Lehigh County, Pennsylvania. In so doing, the ALJ conflates the making of a *prima facie* case — a factual matter — with a matter of interpretation of the One Call Law — a legal issue. This distinction is important because, if the

³ 66 Pa.C.S. § 335(a).

⁴ *Hess v. Pennsylvania Pub. Util. Comm’n*, 107 A.3d 246 (Pa. Commw. Ct. 2014); *York Water Company v. Pennsylvania Pub. Util. Comm’n*, 414 A.2d 138 (Pa. Commw. Ct. 1980); *Pennsylvania Communities Organizing for Change, Inc. v Pub. Util. Comm’n*, 89 A.3d 338 (Pa. Commw. Ct. 2014).

⁵ *Romero v. Pennsylvania Pub. Util. Comm’n*, 154 A.3d 422 (Pa. Commw. Ct. 2017).

⁶ *AT&T Commc'ns of Pennsylvania v. Pennsylvania Pub. Util. Comm'n*, 568 A.2d 1362 (Pa. Commw. Ct. 1990) citing to *East Goshen Township v. Pennsylvania Pub. Util. Comm’n*, 486 A.2d 550 (Pa. Commw. Ct. 1985).

Commission rejects I&E’s interpretation of the two statutory provisions, then the matter is settled as a question of law. However, if the Commission agrees with I&E’s interpretation of the two statutory provisions, I&E offered sufficient evidence to find that Respondent violated those provisions was presented at the November 12, 2025 hearing, as explained below. I&E is seeking a clear ruling on the merits of the Formal Complaint. Regulated utilities, excavators, municipalities, project owners, OALJ, and I&E would all benefit from guidance on the proper interpretation of 73 P.S. § 180 (2.1) and 180(16). Each violation is addressed in turn.

1. The Initial Decision erred by concluding that I&E did not produce enough evidence to make a *prima facie* case that Respondent violated Section 180(2.1)

Respondent violated Section 180(2.1) of the One Call Law when it excavated to install a gas line on October 10, 2024, without first submitting a locate request to the Pennsylvania One Call System. Section 180(2.1) of the One Call Law requires excavators 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.”⁷

Respondent was hired by a builder as part of a new construction home development in Upper Macungie Township, Lehigh County.⁸ Respondent submitted three locate requests, also known as “Tickets,” to POCS. Ticket 20240333036, accepted into evidence as I&E Exhibit 1, was submitted on February 2, 2024, to cover the entire construction site.⁹ Respondent listed the duration of the excavation as one year.

⁷ 73 P.S. § 180(2.1) (emphasis added).

⁸ Initial Decision, *Pa. P.U.C., Bureau of Investigation and Enforcement v. NYCE Construction Services, Inc.*, (March 4, 2026), Finding of Fact 10 and 11, page 5, Docket No. C-2025-3056912 (hereinafter, “Initial Decision”).

⁹ *See also* Initial Decision, Finding of Fact 16, page 6.

Ticket 20240801491, accepted into evidence as I&E Exhibit 2, was submitted by Respondent on March 20, 2024, for the purpose of installing a new water main.¹⁰ Respondent stated that the excavation would begin on March 25, 2024, and listed the duration of this excavation as two weeks.

Ticket 20242642373, accepted into evidence as I&E Exhibit 3, was submitted by Respondent on September 25, 2024, for the purpose of installing an electric line.¹¹ It specified an excavation start date of between September 25, 2024, and October 4, 2024, and listed the duration for the work as lasting two weeks.

However, Respondent failed to submit a Ticket that covered its excavation to install a gas line on October 10, 2024. The September 25, 2024 Ticket could not have adequately covered the October 10, 2024, excavation because it failed to identify the “type of facility owner lines” at the work site, as lines to be identified did not exist at the time the September 25, 2024, Ticket was submitted to POCS. For the same reason, the February 2, 2024, Ticket could not have identified the “type of facility owner lines” at the work site.

Additionally, the February 2, 2024, Ticket only described the work as “new housing subdivision” and identified the duration of the excavation to be one year. I&E submits that such a time frame for all conceivable excavation on a work site for such a length of time is at odds with the purpose of the One Call Law, as any underground utility lines installed after the submission of the February 2, 2024, Ticket would not need to be re-located by the submission of a subsequent Ticket, subjecting those underground utility lines to possible line strikes during later excavation work within that one year timeframe.

¹⁰ See also Initial Decision, Finding of Fact 19, page 6.

¹¹ See also Initial Decision, Finding of Fact 20, page 6.

On October 9, 2024 — the day before the line strike at issue in this case — Respondent completed the excavation work to install the electric conduit.¹² One trench was dug that was planned to include both electric and gas lines. The electric conduit — which was not connected to the grid and was not energized — had also been installed on October 9, 2024.¹³

I&E offered testimony of the Supervisor of the Damage Prevention Section, Sara Locke (“Supervisor Locke”). Supervisor Locke testified that as part of her duties as Supervisor she maintains the Commission’s records relating to One Call matters, including AVRs and Tickets.¹⁴ Supervisor Locke further testified that other than the three Tickets which were introduced as exhibits by I&E, and a fourth Ticket which was from 2023 that had been submitted to POCS by Respondent and which was introduced as Respondent’s Exhibit 3, there were no other PA One Call Tickets associated with this excavation site.¹⁵ She explained why, if there had been other tickets, they would have been in the possession of the Damage Prevention Section and she would have been aware of them.¹⁶

Respondent did not contest that a separate ticket for the October 10, 2024, excavation to install a gas line had not been submitted. Rather, Respondent made a legal argument that the other Tickets which had been submitted earlier, and which were presented to the ALJ as I&E Exhibits 1 through 3, were sufficient to meet its responsibilities under the One Call Law.¹⁷ However, rather than ruling directly on this legal question, the ALJ framed this issue of one of fact, stating: “I&E seemingly alleged that Nyce violated Section 180(2.1) of the

¹² Initial Decision, Finding of Fact 21, page 7; *see also* Tr. 57, lines 1-25 and Tr. 64, lines 10-25 (Witness for Respondent explaining the chronology of the excavation work).

¹³ Initial Decision, Finding of Fact 21-23, page 7.

¹⁴ Tr. 8, lines 19-21; Tr. 13, lines 11-21.

¹⁵ Tr. 22, line 12-25, Tr. 23, lines 1-6.

¹⁶ *Id.*

¹⁷ Answer of NYCE Construction Services, Inc., ¶ 24, (Sept. 8, 2025), *Pa. P.U.C., Bureau of Investigation and Enforcement v. NYCE Construction Services, Inc.*, Docket No. C-2025-3056912 (hereinafter “Answer of Respondent”).

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.”¹⁸

The absence of a record where one would normally be found is evidence that the record was never made. Supervisor Locke testified that the Damage Prevention Section receives Tickets that are submitted to POCS. The Damage Prevention Section would possess all Tickets submitted to POCS for a given excavation. If a Ticket has not been received by the Damage Prevention Section for a given excavation, a finder of fact may reasonably infer from that circumstance that a Ticket was not submitted.

That absence of a record where one would normally be found may give rise to an inference that the record does not exist is a long-standing principle of evidence.¹⁹ For instance, if a shop keeps all records of purchases made but the custodian of the shop’s records offers testimony that there is no record of a specific purchase having been made, a trier of fact may infer that such a transaction did not occur.

¹⁸ Initial Decision, page 17.

¹⁹ *David Black v. PECO Energy Company*, Docket No. C-00992391 (Order entered February 10, 2000) (the lack of an entry in the utility company’s records kept in the normal course of business may give rise to an inference that the fact did not exist; in this instance, the utility’s claim that it was not notified of a high bill complaint was accepted as there was no record to show contact from the complainant); *See also Klein v. F. W. Woolworth Co.*, 309 Pa. 320 (1932) (absence of name on employee payroll records was admissible to prove that the person was not an employee at the time the records were made); *Pennsylvania State Police v. Brandon*, 2017 WL 2836187 (Pa. Commw. 2017) (unreported) (“evidence of the absence of a record of an act, event or condition may be introduced to prove the nonoccurrence or nonexistence thereof, if the matter is one which would ordinarily be recorded.”).

Several provisions of the One Call Law require excavators, facility owners, and project owners to submit documents to the Commission through POCS.²⁰ I&E customarily uses the absence of Tickets or AVRs in the databases where such documentation would have been generated and stored as evidence of the Ticket or AVR not having been submitted. I&E's efforts to enforce compliance with those duties pursuant to the One Call Law, as well as the Commission's duty to enforce the One Call Law, would be frustrated if the absence of a record of a Ticket or AVR could not be proffered to allow the trier of fact to draw an inference that the record was in fact not made.

The exhibits proffered by I&E, consisting of the existing Tickets related to the new housing development construction, and the testimony that there were no other tickets related to that work site for the time of the October 10, 2024, excavation, is sufficient to establish a *prima facie* case that such a Ticket was never submitted by Respondent.

²⁰ See 73 P.S. § 177(1) (Facility owners must be members of POCS and submit certain identifying and contact information); 73 P.S. § 177(4) (Facility owner must respond to request from Designer through POCS); 73 P.S. § 177(5)(i) (Facility owner must mark, stake, locate or otherwise provide the position of the facility owner's underground lines at the work site); 73 P.S. § 177(5)(1)(i.1) (Facility owner must identify the location of an actually known facility's point of connection to its facilities); 73 P.S. § 177(5)(1)(i.2) (Facility owner must document communications between a facility owner and the excavator to ensure that the excavator is aware of a facility owner's inability to locate its facilities); 73 P.S. § 177(5)(v) (Facility owner must respond to all notices through the One Call System); 73 P.S. § 177(5)(v.2) (Facility owner must timely enter a final response to all locate requests); 73 P.S. § 177(5)(vii) (Facility owner must respond to emergency notifications as soon as practicable following receipt of notification of such emergency); 73 P.S. § 177(10) (Facility owner must submit a report of alleged violation to the commission through the One Call System not more than thirty business days after receipt of notice that the facility owner's lines have been damaged by excavation); 73 P.S. § 180(2.1) (Excavator must 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(7) (Facility owner must 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(8) (Excavator must immediately notify 911 and the facility owner if the damage results in the escape of any flammable, toxic or corrosive gas or liquid); 73 P.S. § 180(16) (Excavator must 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); 73 P.S. § 181.1(7) (Project owner must submit a report of 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 work activities, after a project owner's contracted excavator strikes or damages a facility owner's line during excavation or demolition activities).

Moreover, the earlier Tickets submitted by Respondent were insufficient to meet its duty as prescribed by the One Call Law. This is a legal question that the ALJ failed to recognize and requires interpretation of the statute governing this duty of excavators. Guidance as to when an excavator meets its duty to submit a Ticket to POCS is needed to resolve this matter.

Respondent argues that the previously submitted Tickets should adequately cover its responsibilities to submit a Ticket for the October 10, 2024, excavation.²¹ The ALJ erroneously agreed with Respondent's interpretation. In the Initial Decision, the ALJ opined that the February 2, 2024, Ticket, and the September 25, 2024, Ticket were sufficient for Respondent to meet its duty under the One Call Law, stating:

[T]he 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. ... 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.²²

However, the Ticket must specify the location and scope of work, as well as be submitted within a specific time frame (between 3 and 10 days before excavation takes place). The plain text of Section 180(2.1) of the PA One Call Law, 73 P.S. § 180(2.1), requires excavators:

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).

Excavators must "identify the location and type of facility owner lines at each work site."

Respondent had finished excavating on October 9, 2024 for PPL to install its electric line, which

²¹ Answer of Respondent, ¶ 24 ("[T]here was no legal obligation to submit a Ticket for the "gas main installation," as that work was already being conducted pursuant to previously submitted Tickets, given that electric and gas were being run in tandem, and had not been completely buried underground, and in some places were in a common trench, plus as Nyce's employees were well aware of the existence and location of the electrical conduit, as well as the gas main, both of which were inactive.").

²² Initial Decision at page 18.

PPL did that same day.²³ For the October 10, 2024, excavation, Respondent was obligated to “submit a locate request to identify the ... type of facility owner lines” at the work site. The One Call Law specifically provides that “[i]f ... 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.

Reading Sections 180(2.1) and 180(13) together, it is clear that the location, scope, or duration of work are important characteristics of a One Call Ticket. Describing the work to take place — whether installing an electric line, installing a gas main, repairing a water main, or repaving a road — is a necessary aspect defining the “work site.” A facility owner would want to have that information to determine, for instance, whether to mark lines beyond the immediate excavation site, hold a preconstruction meeting, or be on site during the excavation work taking place around its facilities.

The witness for I&E explained that, after searching the Damage Prevention Section’s database for PA One Call Tickets associated with the date and location of the October 10, 2024 excavation at issue in this case, there were four PA One Call Tickets associated with this excavation.²⁴ Of them, none indicated that the scope of work included excavating for a gas main line. If the Commission finds that I&E’s interpretation of Section 180(2.1) is correct, then the testimony and exhibits offered by I&E demonstrating that there was no separate Ticket for the October 10, 2024, gas main installation during a search of a database containing the One Call Tickets is sufficient evidence from which it may be inferred that no such Ticket has been submitted.

²³ Initial Decision, Finding of Fact 23, page 7.

²⁴ *Supra*, n. 13.

2. The Initial Decision erred by concluding that I&E did not produce enough evidence to make a *prima facie* case that Respondent violated Section 180(16) of the One Call Law

Respondent violated Section 180(16) of the One Call Law when it submitted an untimely

AVR. Section 180(16) of the One Call Law in effect at the time of the line strike provides:

To submit a report of an alleged violation to the commission through the One Call System not more than ten business days²⁵ 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.

The statute required that an AVR be submitted to the Commission within 10 business days of a line strike. Respondent did not submit its AVR to the Commission until December 19, 2024 — seventy (70) calendar days after the line strike and well after the statutory deadline for submission.²⁶ This provision requires that an AVR be submitted to the Commission when there is **either** a line strike **or** the excavator believes a violation of the One Call Law has occurred.

The Initial Decision found that there was no *prima facie* case to be had. However, the ALJ ignored clear evidence that Respondent submitted its AVR later than the time frame required by the statute.

The Initial Decision stated that I&E “laid no foundation of facts to support a *prima facie* case that [Respondent] violated Section 180(16) of the PA One Call Law” because I&E “failed to identify a struck or damaged line,” “failed to identify the facility owner of such a struck or damaged line,” and “presented *no* evidence that [Respondent] struck or damaged a facility owner’s line during excavation.” (emphasis in original).²⁷

²⁵ At the time of the October 10, 2024, line strike the statute required that the AVR be submitted within 10 business days. Act of October 30, 2017, P.L. 806 No. 50 § 3, 73 P.S. § 180(16). The timeframe for submitting the AVR was changed to 30 days when the One Call Law was amended by the Act of October 29, 2024, P.L. 1106, No. 127, § 3.

²⁶ Answer of Respondent, ¶ 27.

²⁷ Initial Decision, page 25.

However, Respondent admitted in its Answer that it struck the electric line in question on October 10, 2024.²⁸ Respondent admitted in its Answer that it did not submit its AVR to the Commission through POCS until December 19, 2024.²⁹ I&E offered testimony that the Damage Prevention Section received the AVR submitted by the Respondent.³⁰ I&E offered testimony that the Respondent submitted its AVR on December 19, 2024.³¹ At the hearing, Respondent’s counsel stated that “if the PUC has evidence of when [the AVR] was submitted, we’ll stipulate to that,” and that he did not think “that’s a point of major controversy.”³²

It is not controverted that Respondent struck an electric line on October 10, 2024. It is also not controverted that Respondent submitted its AVR to the Commission on December 19, 2024. And yet, the ALJ stated that there was “no evidence” of a line strike occurring or of the date of the submission of the AVR by Respondent.

What is controverted by the Respondent, in its Answer to I&E’s Complaint, at the November 12, 2025, hearing, and in its Brief, is whether Respondent was required to submit an AVR for the line strike in question. Respondent disputes that the electric line it had struck is a “line” as defined by the One Call Law. Respondent argued in its Answer and during its closing statement at hearing that because the electric line was not connected to the grid, and the trench was not completely covered, that the electric line in question does not meet the definition of a “line” under the statute.³³

The Initial Decision, while not explicitly ruling that an unconnected and unenergized line was not a “line” for purposes of the requirement to submit an AVR under Section 180(16),

²⁸ Answer of Respondent, ¶ 21.

²⁹ Answer of Respondent, ¶ 27.

³⁰ Tr. 11, lines 2-16.

³¹ Tr. 23, lines 7-10 and 23-24.

³² Tr. 68, lines 19-23.

³³ Answer of Respondent, ¶¶ 8, 21.

agreed with Respondent that it was not subject to the responsibility to submit an AVR in this case. The ALJ opined that an “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.”³⁴

I&E urges the Commission to reverse this interpretation of Section 180(16).

Unconnected or unenergized utility lines are still “lines” and this conclusion is commanded by both the definition of a “line” in the One Call Law and a plain reading of Section 180(16). The One Call Law defines a “line” in relevant part as “an underground conductor or underground pipe or structure used in providing electric or communication service.”³⁵ Thus, the One Call Law applies to underground lines that are “used in providing ... service.”

The electric line that was struck was both underground and used to provide service. While not energized or connected to the grid at the time of the line strike, the line was intended to provide electricity to the new development under construction. There is nothing in the statute to suggest that a line must be active to be qualified for protection under the PA One Call Law. In fact, even abandoned lines — lines which are no longer in service — receive protection under the PA One Call Law. For instance, Section 180(15) of the PA One Call Law requires excavators to locate abandoned or unclaimed lines.³⁶

With respect to whether the line was underground, the definition of a “line” in the One Call Law does not depend on the degree to which the line is buried. Here, the line was at least partially buried in a trench. Even if it was not buried at all, it would still constitute an

³⁴ Initial Decision, page 20.

³⁵ 73 P.S. § 176.

³⁶ 73 P.S. § 180(15).

“underground line” because, as it lays in the trench, it is obscured from view by those standing on the surface of the ground, and it lays below the surface of the Earth. Further, it is clear from the placement of the electric line into a trench that the line was being undergrounded; in other words, it was going to be an underground line and was not going to be an electric line that would be carried on poles above ground.

In sum, Respondent was obligated by Section 180(16) of the One Call Law to submit an AVR to the Commission to apprise the Commission of the line strike within 10 business days of the incident. It failed to do so and was therefore in violation of that provision of the One Call Law.

III. CONCLUSION

For the reasons set forth above, I&E respectfully requests that the Commission set aside the Initial Decision and find the Respondent in violation of Sections 180(2.1) and 180(16) of the Pennsylvania One Call Law, 73 P.S. §§ 180(2.1) and 180(16), and impose an administrative penalty of \$3,500 as requested in the Complaint.

Respectfully submitted,



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Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
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Harrisburg, Pennsylvania 17120

Dated: March 24, 2026

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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| Pennsylvania Public Utility Commission, | : | |
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| v. | : | Docket No. C-2025-3056912 |
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| NYCE Construction Services, Inc., | : | |
| Respondent | : | |

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Exceptions of the Bureau of Investigation and Enforcement** dated March 24, 2026, upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Served via Electronic Mail:

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