



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

May 20, 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.
Connell Equipment Inc. t/d/b/a RLE Enterprises
Docket No. C-2026-3061355
I&E's Motion for Summary Judgment

Dear Secretary Homsher:

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's **Motion for Summary Judgment** in the above-referenced proceeding. Copies have been served on the parties of record in accordance with the Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Colby B. Widdowson', is written over a light blue circular stamp.

Colby B. Widdowson
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 326185
(717) 787-2139
cwiddowson@pa.gov

CBW/ac
Enclosures

cc: Honorable Emily Farren (*via email only* – efarren@pa.gov)
Stephanie Wimer, Deputy Chief Prosecutor (*via email only* – stwimer@pa.gov)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2026-3061355
	:	
Connell Equipment Inc.	:	
t/d/b/a RLE Enterprises,	:	
Respondent	:	

NOTICE TO PLEAD

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) has filed a Motion for Summary Judgment in the above-captioned matter. Pursuant to 52 Pa. Code § 5.102(b), you are hereby notified to file a written response within **twenty (20)** days of service of the Motion. If no response denying the enclosed Motion for Summary Judgment is timely filed, the facts set forth in the Motion may be deemed to be true, requiring no other proof. Any Answer to the Motion must be filed with the Commission, with a copy served to the I&E prosecutor.



Colby B. Widdowson
Prosecutor
PA Attorney ID No. 326185

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
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Dated: May 20, 2026

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2026-3061355
	:	
Connell Equipment Inc.	:	
t/d/b/a RLE Enterprises,	:	
Respondent	:	

MOTION FOR SUMMARY JUDGMENT

The Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”), by its prosecuting attorney, files this Motion for Summary Judgment pursuant to Section 5.102(a) of the Commission’s regulations, 52 Pa. Code § 5.102(a), as there is no dispute as to material facts and I&E is entitled to judgment as a matter of law. In support thereof, I&E respectfully represents as follows:

I. INTRODUCTION AND BACKGROUND

1. I&E is the bureau established to take enforcement actions against public utilities and other entities subject to the Commission’s jurisdiction pursuant to 66 Pa.C.S. § 308.2(a)(11); *see also Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (August 11, 2011) (delegating authority to initiate proceedings that are prosecutory in nature to I&E).

2. Section 182.8(c)-(d) and Section 182.10 of the Underground Utility Line Protection Law (“PA One Call Law”), Act of October 29, 2024, P.L. 1106, No. 127, 73 P.S. §§ 182.8(c)-(d) and 182.10, authorize the Commission to, *inter alia*, hear and determine complaints 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) and 182.10.

3. Section 182.8(c)(2) of the PA One Call Law, 73 P.S. § 182.8(c)(2), authorizes the Commission’s prosecutor staff to bring a formal complaint against entities subject to the PA One Call Law. 73 P.S. § 182.8(c)(2).

4. Section 182.10 of the PA One Call Law, 73 P.S. § 182.10(b)(1)(i)-(ii), authorizes the Commission to impose administrative penalties on any person or corporation, subject to the PA One Call Law, who violates any provisions of the PA One Call Law or any regulation or order issued thereunder governing underground utility lines, of up to \$2,500 per violation or if the violation results in injury, death, or property damage of \$25,000 dollars or more an administrative penalty not to exceed \$50,000. 73 P.S. § 182.10(b)(1)(i)-(ii).

5. Respondent is an “excavator,” as that term is defined in Section 176 of the PA One Call Law, 73 P.S. § 176.¹ Section 180 of the PA One Call Law, 73 P.S. § 180, imposes duties and responsibilities upon excavators. Respondent, as an excavator, is subject to the authority of this Commission pursuant to Section 182.10 of the PA One Call Law, 73 P.S. § 182.10, which requires excavators to comply with the PA One Call Law. 73 P.S. § 182.10.

6. I&E commenced this action on March 26, 2026 by filing a Formal Complaint alleging violations of the PA One Call Law in connection with six strikes on sewer laterals on Oaklawn Avenue, Hanover Township, Luzerne County, Pennsylvania, occurring on April 3, 2025 and April 7, 2025. I&E alleges that Respondent failed to exercise due care and employ prudent techniques in its excavation after it had knowledge of the existence of the sewer laterals and that the sewer laterals were not marked, in violation of 73 P.S. § 180(4)&(5) (Excavators, Duties).

¹ “Excavator” is defined as any person who or which performs excavation or demolition work for himself or for another person.” 73 P.S. § 176. “Excavation work” is defined as “the use of powered equipment or explosives in the movement of earth, rock or other material, and includes, but is not limited to, anchoring, augering, backfilling, blasting, boring, digging, ditching, drilling, driving-in, grading, plowing-in, pulling-in, ripping, scraping, trenching and tunneling.” *Id.*

7. In response to I&E's Complaint, Respondent admitted to a significant compliance history, including a \$5,000 unpaid administrative penalty. *See* ¶ 13-24 of Respondent's Answer and New Matter to I&E's Complaint ("Answer").

8. Respondent has admitted to conducting the excavations on Oaklawn Avenue pursuant to PA One Call tickets 20250713607 and 20250792701. *See* ¶ 13-24 of Answer.

9. Respondent has admitted that Hanover Township is the facility owner of the sewer main on Oaklawn Avenue and Hanover Township marked the sewer main, but did not mark the location of the sewer laterals. *See* ¶ 29-30 of Answer.

10. Respondent has admitted that on April 3, 2025, Respondent's excavation crew, using a mechanical excavator, struck and damaged three sewer laterals in front of 20, 21, and 23 Oaklawn Avenue. *See* ¶ 32 of Answer.

11. Respondent has admitted that on April 4, 2025, Respondent submitted three alleged violation reports ("AVR") stating that "while digging for a new water main installation, our crew struck an unmarked sewer lateral" for houses at 20, 21, and 23 Oaklawn Avenue. *See* ¶ 33-35 of Answer.

12. Respondent has admitted that on April 7, 2025, Respondent's excavation crew, using a mechanical excavator, struck and damaged three sewer laterals in front of 13, 14, and 15 Oaklawn Avenue. *See* ¶ 36 of Answer.

13. Respondent has admitted that on April 7, 2025, Respondent submitted three AVRs stating that "while digging for a new water main installation, our crew struck an unmarked sewer lateral" for houses at 13, 14, and 15 Oaklawn Avenue. *See* ¶ 37-39 of Answer.

14. Respondent has admitted that while engaged in excavation activities on April 3, 2025 and April 7, 2025, Respondent, while using a mechanical excavator, struck and damaged a total of six sewer laterals on Oaklawn Avenue. *See* ¶ 40 of Answer.

15. Respondent has admitted that it was aware of the existence of the sewer laterals and that they were unmapped, prior to excavation. *See* ¶ 42, 48 of Answer.

16. Respondent has admitted that the project owner agreed to pay for the replacement of any damaged sewer laterals that were damaged during excavation. *See* ¶ 43 of Answer.

17. Respondent has admitted that Hanover Township, Pennsylvania American Water Company (“PAWC”), and Respondent agreed that any damaged sewer laterals would be replaced by Respondent, PAWC would pay for the replacement costs for each new sewer lateral, and PAWC would warrant the replaced sewer lateral for one year. *See* ¶ 50 of Answer.

18. Respondent’s Answer did not deny any allegation of material fact in I&E’s Complaint and did not raise a genuine dispute as to any material fact. *See* ¶ 13-42 of Answer.

19. Respondent’s admissions demonstrate that no genuine issue of material fact exists and, when viewed in the light most favorable to Respondent, I&E’s Complaint must be sustained as a matter of law.

II. PROCEDURAL BACKGROUND

20. On March 26, 2026, I&E filed the aforementioned Complaint against Respondent. I&E’s Complaint was served by Secretarial Letter dated March 27, 2026.

21. On April 13, 2026, Respondent filed a letter requesting an unopposed twenty (20) day extension of time to answer the Complaint.

22. On May 7, 2026, the Respondent filed an Answer and New Matter to I&E's Complaint.

23. On May 8, 2026, I&E filed a Reply to Answer and New Matter.

24. By Notice dated May 15, 2026, an initial in-person evidentiary hearing is scheduled for June 24, 2026 at 10:00 a.m. and a prehearing order was served on May 15, 2026.

III. ARGUMENT

A. Summary Judgment Standard

25. The Commission's Rules of Administrative Practice and Procedure permit parties to file preliminary motions. 52 Pa. Code §§ 5.101-103. Specifically, the Commission's regulations at 52 Pa. Code § 5.102(a) permit any party to move for summary judgment after the pleadings are closed, but within such time as not to delay a hearing. A motion for summary judgment must be based on the pleadings, depositions, answers to interrogatories, admissions, and supporting affidavits. 52 Pa. Code § 5.102(c). "Documents not already filed with the Commission shall be filed with the motion." *Id.* The presiding officer must grant a motion for summary judgment if the pleadings, depositions, answers to interrogatories, admissions, and affidavits show that there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law. 52 Pa. Code § 5.102(d)(1).

26. Summary judgment is properly granted where the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show

that there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law. *Pennsylvania State Univ. v. County of Centre*, 615 A.2d 303, 304 (Pa. 1992).

27. In the case of a motion for summary judgment, the moving party bears the burden of showing that no genuine issue of material fact exists and that it is entitled to a judgment as a matter of law. The Commission must view the record in the light most favorable to the non-moving party, giving that party the benefit of all reasonable inferences. *First Mortgage Co. of Pennsylvania v. McCall*, 459 A.2d 406 (Pa. Super. 1983). All doubts as to the existence of a genuine issue of material fact must be resolved against the moving party. *Thomson Coal Company v. Pike Coal Company*, 412 A.2d 466, 469 (Pa. 1979). Summary judgment will be granted only where the right is clear and free from doubt. *Id.* at 468.

28. The non-moving party in a motion for summary judgment must allege facts showing that an issue for trial exists. *Stover v. The United Telephone Company of Pennsylvania*, Docket No. C-00923833 (Order entered July 21, 1992 adopting Initial Decision issued June 1, 1992). The Commission has interpreted 52 Pa. Code § 5.102(c) in conformity with Rule 1035 (now Rule 1035.1) of the Pennsylvania Rules of Civil Procedure. *South River Power Partners, L.P. v. West Penn Power Company*, Docket No. C-00935287 (Order entered November 6, 1996) at 13. In civil practice, a non-moving party may not rely solely upon denials in its pleadings, but must submit some materials to establish that a genuine issue of material facts exists. *Nicastro v. Cuyler*, 467 A.2d 1218 (Pa. Cmwlth. 1983); *Pennsylvania Gas & Water Co. v. Nenna & Frain, Inc.*, 467 A.2d 330 (Pa. Super. 1983); *Geriot v. Council of Borough of Darby*, 457 A.2d 202 (Pa. Cmwlth. 1983); *see also*,

Pa. R.C.P. 1035.3(d), providing that “[s]ummary judgment may be entered against the non-moving party who does not respond.”

29. The provision at 52 Pa. Code § 5.102(c) serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of a case exists, a hearing is unnecessary. *Lehigh Valley Power Committee v. Pa. Pub. Util. Comm’n*, 563 A.2d 557 (Pa. Cmwlth. 1989); *S.M.E. Bessemer Cement, Inc. v. Pa. Pub. Util. Comm’n*, 540 A.2d 1006 (Pa. Cmwlth. 1988); *White Oak Borough Authority v. Pa. Pub. Util. Comm’n*, 103 A.2d 502 (Pa. Super. 1954).

B. Respondent admits to striking and damaging six sewer laterals with a mechanical excavator, when it knew of the sewer laterals’ existence and knew the sewer laterals were unmarked.

30. A review of the pleadings, as well as the accompanying affidavit attached hereto as Attachment A, demonstrate that no genuine issue of material fact exists and that when viewed in the light most favorable to Respondent, I&E must prevail as a matter of law.

31. The main thrust of Respondent’s defense is that the sewer laterals are privately owned by the property owner and not by Hanover Township, the facility owner. Respondent asserts that the “statutory provisions cited by Complainant are inapplicable as a matter of law because the sewer laterals at issue were not facility owner lines within the meaning of the [PA One Call Law].”

32. By Respondent’s own defense, Respondent acknowledges that its defense rests on an interpretation of law, not on a genuine issue of material fact.

33. Even if the Commission accepts as true that the sewer laterals are privately owned by the property owner, I&E’s Complaint must still be sustained.

34. Customer-owned sewer lateral lines are still a “line” or “facility” as defined by the PA One Call Law. Per Section 176, “line” or “facility is defined as “an underground pipe used in carrying, gathering, transporting or providing natural or artificial gas, petroleum, propane, oil or petroleum and production product, sewage, water or other service to one or more transportation carriers.”

35. Such privately owned sewer lateral lines are still operated by utilities or facility owners. The definition of “facility owner” includes those that *operate* a line. Section 176 of the Pennsylvania One Call Law, 73 P.S. § 176, defines “facility owner” as “the public utility or agency, political subdivision, municipality, authority, rural electric cooperative or ***other person or entity*** who or which owns or ***operates a line.***” (emphasis added).

36. The definition of “facility owner” excludes from its definition “[a] person serving the person's own property through the person's own line, if the person does not provide service to any other customer.” 73 P.S. § 176.

37. A homeowner does not serve themselves with sewer service via their privately owned sewer lateral. The homeowner is served sewer service by the facility owner who operates the sewer main. Therefore, the sewer lateral is not subject to the exclusion in the “facility owner” definition.

38. The sewer service provider, by providing service via the lateral and sewer main, operates the sewer lateral. As the operator of the sewer lateral line, the sewer service provider is the “facility owner” of the sewer lateral.

39. In this case, the private homeowners were not “facility owners” of the sewer laterals as defined by the PA One Call Law, but Hanover Township, as the operator of the sewer system on Oaklawn Avenue, is the facility owner.

40. In addition, the violations charged by I&E, 73 P.S. § 180(4)&(5), do not require that the sewer lateral be owned by a “facility owner.”

41. 73 P.S. § 180(4) requires that an excavator:

*[E]xercise due care and to take all reasonable steps necessary to avoid injury to or otherwise interfere with all lines where positions have been provided to the excavator by the facility owners pursuant to section 2(5).¹ Within the tolerance zone the excavator shall employ prudent techniques, which may include hand-dug test holes, vacuum excavation or similar devices to ascertain the precise position of such facilities. **If insufficient information to safely excavate is available pursuant to section 2(5), the excavator shall employ like prudent techniques which shall be paid for by the project owner pursuant to clause (15).** (emphasis added).*

42. 73 P.S. § 180(4) requires of an excavator that:

*If the facility owner fails to respond to the excavator's timely request as provided under section 2(5) or **the facility owner notifies the excavator that the line cannot be marked within the time frame** and a mutually agreeable date for marking cannot be arrived at, the excavator may proceed with excavation as scheduled, but not earlier than the lawful dig date, **provided he exercises due care in his endeavors**, subject to the limitations contained in this clause and clauses (2.1) through (4) and (20). (emphasis added)*

43. As admitted by Respondent, Respondent was informed by Hanover Township, the operator of the sewer system on Oaklawn Avenue, that the sewer laterals could not be marked. See ¶ 42, 48 of Answer. In this case, Respondent was notified by the facility owner of the existence of the sewer laterals and the inability to mark those laterals. In other words, Respondent was notified that a line could not be marked and there was insufficient information to safely excavate. Subsequently, Respondent failed to employ prudent techniques or exercise due care prior to excavating. As admitted by Respondent, Respondent

thereafter struck and damaged six sewer laterals using a mechanical excavator. *See* ¶ 36, 40 of Answer.

44. Per Respondent's own admissions, Respondent showed a callous disregard for damage it may cause to the sewer laterals on Oaklawn Avenue after it had been put on notice of the sewer laterals existence and the inability to mark those laterals.

45. Therefore, as a matter of law, I&E is entitled to summary judgment as to Respondent's violations of 73 P.S. § 180(4)&(5).

IV. CONCLUSION

WHEREFORE, for the foregoing reasons, the Bureau of Investigation and Enforcement respectfully requests that Your Honor grant its Motion for Summary Judgment and sustain its Complaint, including all of the relief requested therein.

Respectfully submitted,



Colby B. Widdowson
Prosecutor
PA Attorney ID No. 326185

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 787-2139
cwiddowson@pa.gov

Date: May 20, 2026

ATTACHMENT A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2026-3061355
	:	
Connell Equipment Inc. t/d/b/a RLE	:	
Enterprises,	:	
Respondent	:	

**AFFIDAVIT OF SARA LOCKE IN SUPPORT OF
THE BUREAU OF INVESTIGATION AND ENFORCEMENT'S
MOTION FOR SUMMARY JUDGMENT**

I, Sara Locke, being duly sworn according to law, depose and say the following:

1. My name is Sara Locke and my business address is 400 North Street, Harrisburg, PA 17120.
2. Since February 2020, I have been the Damage Prevention Supervisor in the Pennsylvania Public Utility Commission's ("Commission") Bureau of Investigation and Enforcement's ("I&E"), Damage Prevention Section ("DPS").
3. As part of my job responsibilities, I supervise and approve all investigations conducted by DPS. I also maintain all Commission records related to investigations, PA One Call tickets, and alleged violation reports ("AVR").
4. Connell Equipment Inc. t/d/b/a RLE Enterprises ("Respondent") is an "excavator," as that term is defined in Section 176 of the PA One Call Law, 73 P.S. § 176.
5. Respondent, while engaged in work as an excavator, struck and damaged six sewer laterals on Oaklawn Avenue, Hanover Township, Luzerne County, PA, on April 3, 2025 and April 7, 2025, while using a mechanical excavator.

6. Hanover Township operates the sewer system, including the sewer laterals, on Oaklawn Avenue.

7. Customer-owned sewer lateral lines are a “line” or “facility” as that term is defined in Section 176 of the PA One Call Law, 73 P.S. § 176.

8. Hanover Township is the “facility owner” of the sewer laterals as that term is defined in Section 176 of the PA One Call Law, 73 P.S. § 176.

9. At the time of the excavation, Respondent knew of the existence of the sewer laterals and knew that Hanover Township, the facility owner, could not mark the location of the sewer laterals.

10. Despite this knowledge and having insufficient information to safely excavate, Respondent employed the use of a mechanical excavator and did not employ prudent techniques, such as hand-dug test holes, vacuum excavation or similar devices to ascertain the precise position of the facilities.

11. Despite the facility owner notifying Respondent that the sewer lateral could not be marked, Respondent failed to exercise due care in its excavation.

12. I am authorized to submit this affidavit for and on behalf of I&E and represent that the facts set forth herein are true and correct to the best of my knowledge, information, and belief.

Sara Locke
Sara Locke

Sworn and subscribed before me
this 20th day of May 2026.

Victoria R. Moore
Notary Public
My Commission expires on:

Commonwealth Of Pennsylvania - Notary Seal
Victoria R Moore, Notary Public
Dauphin County
My Commission Expires September 03, 2026
Commission # 1115176

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**


Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2026-3061355
	:	
Connell Equipment Inc.	:	
t/d/b/a RLE Enterprises,	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Service by First Class Mail and Electronic Mail:

Terrence McDonald, Esquire
103 East Drinker Street
Dunmore, PA 18512
terry@terrymcdonaldlaw.com
terrencemcdonaldesquire@gmail.com
Counsel for Respondent



Colby B. Widdowson
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 326185
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Dated: May 20, 2026