COMMISSIONERS:
JASON SHAW, Chairman
TIM G. ECHOLS, Vice-Chairman
FITZ JOHNSON
LAUREN "BUBBA" McDONALD
TRICIA PRIDEMORE

FILED
JUL 26 2023
EXECUTIVE SECRETARY
G.P.S.C.



REECE McALISTER
EXECUTIVE DIRECTOR

SALLIE TANNER
EXECUTIVE SECRETARY

Georgia Public Service Commission

(404) 656-4501
(800) 282-5813

244 WASHINGTON STREET, SW
ATLANTA, GEORGIA 30334-5701

FAX: (404) 656-2341
psc.ga.gov

BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION
STATE OF GEORGIA

IN THE MATTER OF:

GUFPA CASE NO. PSC 22-24878 and 22-24879

DOCKET NO. 44927

Willoughby Landscaping, Inc.,
Respondent

DOCKET# 44927
DOCUMENT #205227

MAILED
7.31.2023

NOTICE OF HEARING AND PROCEDURAL AND SCHEDULING ORDER

To: **Willoughby Landscaping, Inc.**
Attn: John Strickland
P.O. Box 1294
Woodstock, GA 30188

You are hereby notified that the Georgia Public Service Commission ("Commission") will hold a hearing in the Hearing Room of the Commission, located at 244 Washington Street, S.W., Atlanta, Georgia 30334-5701, **commencing at 10:00 o'clock a.m. on September 6, 2023** and continuing on such further days as the Commission deems necessary until completed, for the purpose of hearing evidence regarding alleged violations of O.C.G.A. T. 25, Ch. 9, as set forth herein under the heading titled "Matters Asserted" that, if proven, may result in the imposition of a penalty against Willoughby Landscaping, Inc. (also referred to herein as "Respondents") in an amount not to exceed $10,000.00 per violation. Notification of the following matters is hereby given:

LEGAL AUTHORITY FOR HEARING

This hearing will be held under the authority and jurisdiction conferred upon the Commission by O.C.G.A. §25-9-13 and §46-2-91; and in accordance with the Georgia Administrative Procedure Act, O.C.G.A. §50-13, and the Rules and Regulations of the Commission.

PROCEDURES

The following are the procedures to which any party to this hearing should adhere with respect to this docket:

1. **Intervention:**

   (a) Any person or party upon whom a statute does not confer an unconditional right to intervene must file an application to intervene within thirty (30) days following the first published notice of the proceedings.

   (b) Applications must clearly specify the docket in which the applicant seeks to intervene. In addition to the requirements prescribed in O.C.G.A. §46-2-59 for applications for leave to intervene, the applicant must: (1) identify other intervening parties or intervening party applicants whose interest is similar to that of the applicant along with an explanation of why the identified intervening parties or intervening party applicant will not adequately represent the applicant's interest: and (2) state the applicant's present intention to submit direct testimony and by whom and on what subject. The requirements identified herein shall constitute a continuing obligation of the applicant or intervening party. Any objections to applications must be filed in accordance with O.C.G.A §46-2-59(d).

   (c) Any application for leave to intervene that is filed late must state the reason why such application was not filed within thirty (30) days of the first published notice. Objections to later intervention application must be filed in conformity with the requirements of O.C.G.A. §46-2-59(d).

   (d) The Commission will take up and rule on applications for leave to intervene at the first hearing date scheduled in this docket.

2. **Service:**

   In addition to filing an original and eight (8) copies of documents, with a 3.5" disk containing the electronic version of the document in either Microsoft Word for text documents or Microsoft Excel format for spreadsheets, with the Commission's Executive Secretary, copies of all pleadings, filings, correspondence, and any other documents related to, and submitted in, the course of this docketed matter should be served upon all other interveners recognized by the Commission in this docket.

3. **Hearing Exhibits:**

   It shall be the responsibility of the party sponsoring any hearing exhibits to see that the court reporter and all parties of record, in addition to the individual Commissioners or hearing officer, receive copies of all exhibits at the time of their introduction at the hearing.

RIGHTS OF RESPONDENT

Respondent have the following rights in connection with this hearing:

(1) To respond to the matters asserted in this document and to present evidence on any relevant issue;

(2) To be represented by counsel at its expense;

(3) To subpoena witnesses and documentary evidence through the Commission by filing requests with the Executive Secretary of the Commission; and

(4) Such other rights as are conferred by law and the rules and regulations of the Commission.

MATTERS ASSERTED

1.

The Commission has the power and authority to enforce the provisions of O.C.G.A. T, 25, Ch 9.

2.

The Commission Staff received reports of multiple probable violation of GUFPA alleging that on or about September 12, 2022, Respondent violated O.C.G.A. T. 25, Ch. 9. A copy of this report is attached hereto as Attachment A. The allegations contained in the report constitute violations of O.C.G.A. T. 25, Ch. 9.

STATUTES INVOLVED

25-9-8(a) Striking, damaging, injuring or loosening any utility facility which has been staked or marked.

25-9-8(b) Failure to exercise reasonable care when excavating or blasting is to take place within the tolerance zone.

WHEREFORE, THE COMMISSION ORDERS that:

A. This Notice of Hearing and Procedural and Scheduling Order shall be served upon the Respondent by certified mail and shall constitute notice to the Respondent of the matters asserted pursuant to O.C.G.A. §50-13-13(a). A copy of this Order shall be served upon the Consumers' Utility Counsel pursuant to Commission Rule 515-2-1-.09; and public notice of this investigation and hearing shall be given by the Commission.

B. The Commission hereby adopts the schedule, procedures, and statements regarding the issues and matters asserted set forth within this Order.

C. A motion for reconsideration, rehearing, oral argument, or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

D. Jurisdiction over these matters is expressly retained for the purpose of entering such further Order or Orders as this Commission may deem just and proper.

E. The Commission hereby assigns this matter for hearing before its hearing officer, Nancy Gibson.

NOTICE: If Commission Staff determines to its satisfaction that the Respondent has satisfied the obligations of the prior Consent Order, Staff shall be authorized to *nolle prosequi* the Rule Nisi. No continuance or postponement of the above-scheduled hearing will be granted, except upon 72 hours' written notice and except for good cause shown. All requests for continuance should be addressed to Mr. Will Culbreath at Georgia Public Service Commission, 244 Washington Street, SW, Atlanta, Georgia 30334-5701 [facsimile # 404-463-6532] or via e-mail to wculbreath@psc.state.ga.us. Please include documentation in support of your request for continuance. If your presence is required in court or before a government agency on the hearing date scheduled in this Notice, you must provide a copy of the court or agency calendar or subpoena showing the date and time of the conflicting hearing. Only upon receipt of written response from the Commission excusing your appearance are you excused from your duty to appear at the hearing noticed hereby.

The above by action of the Commission in Administrative Session on April 18, 2023.

Sallie Tanner
Executive Secretary

7-26-23
Date

Jason Shaw
Chairman

7-26-23
Date

COMMISSIONERS:

JASON SHAW, Chairman
TIM G. ECHOLS, Vice-Chairman
FITZ JOHNSON
LAUREN "BUBBA" McDONALD
TRICIA PRIDEMORE

REECE McALISTER
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BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION

IN THE MATTER OF:	)	
	)	
Willoughby Landscaping, Inc.,	)	DOCKET NO. 44927
RESPONDENTS	)	(PSC Case No. 22-24878 and
	)	22-24879)

CERTIFICATE OF SERVICE

I hereby certify that this Notice of Hearing was filed with the Commission's Executive Secretary and a copy of same was served upon all parties and persons listed below via hand delivery as indicated by an asterisk, or by depositing same in the United States mail.

*Sallie Tanner, Executive Secretary
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, Georgia 30334

Willoughby Landscaping, Inc.
Attn: John Strickland
P.O. Box 1294
Woodstock, GA 30188

Willoughby Landscaping, Inc., registered agent
c/o
930 Arthur Road
Canton, GA 30115

Respectfully Submitted this 31st day of July, 2023:

Maritza Rivera, Admin. Assistant
Facilities Protection Unit
Georgia Public Service Commission
244 Washington St. Ste. 112
Atlanta, GA 30334

COMMISSIONERS:
TRICIA PRIDEMORE, Chairman
TIM G. ECHOLS, Vice-Chairman
FITZ JOHNSON
LAUREN "BUBBA" McDONALD
JASON SHAW

MICHELLE THEBERT
FACILITIES PROTECTION
UNIT DIRECTOR

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1/11/2023

Willoughby Landscaping, Inc.
Attn: John Strickland
P.O. Box 1294
Woodstock, GA 30188

Date of Incident: 9/12/2022 and 2/24/2021
Docket #: 44927
Case #: PSC 22-24878 and 22-24879
Incident Location: 119 Griffin Way, Canton and 953 Rittenhouse Way, Lot 8, Atlanta

To Whom It May Concern:

A Notice of Probable Violation(s) ("NOPV") of the Georgia Utility Facility Protection Act ("GUFPA" or the "Act") has been filed with the Georgia Public Service Commission Pipeline/Facilities Safety Office ("Staff") naming you as the probable violator ("Respondent"). A copy of the Act can be found at www.lexisnexis.com/hottopics/gacode (Title 25, Chapter 9). The probable violations alleged are as follows:

O.C.G.A. Violations

25-9-6(g) Failure of the locate ticket holder to maintain the integrity of the locate marks when subcontractor is performing the actual work.

25-9-8(a) Striking, damaging, injuring or loosening any utility facility which has been staked or marked.

25-9-8(b) Failure to exercise reasonable care when excavating or blasting is to take place within the tolerance zone.

Violations of the Act are punishable by civil penalties of up to $10,000.00 (ten thousand dollars) *per violation*. **Staff recommends a civil penalty of $7,500.00. Respondent may choose from one of several options regarding the alleged probable violations. Staff recommends mitigation of $6,000.00 of the above-recommended civil penalty by attendance of five or more employees at a Commission approved damage prevention class. The respondent will be responsible for completing the training class and submitting the remaining $1,500.00 penalty in certified funds or cashier's check to the Georgia Public Service Commission.**

Specific information about the above probable violation(s) is provided in this packet so please read all documentation **completely** and **carefully**. In this packet, you will find the **Response Options**, **NOPV/Incident Report**, **Consent Agreement**, **GUFPA Questionnaire**, additional information on **Requests for GUFPAAC**, and a list of **Commission Approved Damage Prevention Trainers**.

YOUR AFFIRMATIVE WRITTEN RESPONSE IS REQUIRED WITHIN 30 DAYS OF THE DATE OF THIS NOPV (See "Response Options" page for more information). Failure to respond either by executing the consent agreement or requesting a hearing before the Advisory Committee will result in the issuance of a Rule NISI to be heard before the Georgia Public Service Commission.

If you have any questions, please call me at (404) 463-6526.

Sincerely,

Ontejo Johnson
ojohnson@psc.state.ga.us
GPSC GUFPA Investigator

RESPONSE OPTIONS

(Please check only one)

Respondent: Willoughby Landscaping, Inc.
Docket #: 44927
Case #: PSC 22-24878 and 22-24879

Respondent may choose from **ONE** of the following **OPTIONS** to dispose of this case:

☐ **OPTION 1 – I Disagree and want to attend GUFPAAC**: If you *disagree* with the probable violation(s) alleged you may request to appear and have your case heard before the Georgia Utility Facility Act Advisory Committee ("GUFPAAC"), a committee of industry stakeholders and peers. Please dispute same by submitting a detailed written response and return it along with all supporting evidence (pictures, diagrams, maps, witness statements and any other documentation to be used in support of your position) and sign/return the below statement within **thirty (30) days** of this NOPV:

I hereby request the opportunity to present my case to the GUFPAAC and I certify under the penalty of perjury that the response(s) and information provided regarding the afore-mentioned probable violation(s) are true and correct to the best of my knowledge.

_____ _____

Authorized Representative of Respondent Date

*****Upon receipt of your signature above, your detailed written response and all supporting evidence, your case will be scheduled to be heard by the GUFPAAC and you will be notified by mail of the date of this GUFPAAC meeting.**

☐ **OPTION 2 – I Disagree and want a Hearing before the Hearing Officer:** If you disagree with the probable violation(s) alleged, please dispute by submitting a detailed, written response along with all supporting evidence (pictures, diagrams, maps, witness statements and any other documentation) to be used in support of your position **within 30 days of receipt of this letter.** If you need more time to gather your information, **you must contact the GUFPA staff to request additional time. Note: The information you provide will not close the case, it will assist the investigator in his/her investigation to arrive at a more informed conclusion. If at the point you still disagree with the findings of the investigator, your case will be heard by a Commission hearing officer.**

**** Sign below only if you are choosing Option 2 ****

I certify under the penalty of perjury that the response(s) and information provided regarding the afore-mentioned probable violation(s) are true and correct to the best of my knowledge.

_____ _____

Authorized Representative of Respondent Date

☐ **OPTION 3 – I Agree and Wish to Pay the Mitigated Civil Penalty and attend Training:** If you agree with the alleged probable violation(s) please complete, sign and return the **Consent Agreement** provided for in this package. A **minimum of five (5) employees** of your company shall attend Commission approved damage prevention training. You must pay the recommended **mitigated** civil penalty of **$1,500.00**. Staff must receive the **signed Consent Agreement** and **this "Response" page** indicating your decision, and the mitigated penalty amount by certified check or money order within 30 days of receipt of this letter.

PLEASE NOTE: Georgia Law requires that ALL information requested in OPTION 1 and OPTION 2 be provided upon Staff's request. (O.C.G.A. §§ 24-10-26, 46-2-20 and 25-9-1 *et. seq.*). Failure to respond and/or comply with these requests for information in the 30 days provided for shall result in the loss of one or more of the **OPTIONS** presented.

☐ **OPTION 4 – I Agree and Wish to Pay the Full Civil Penalty**: If you agree with the alleged probable violation(s) please complete, sign and return the **Consent Agreement** provided for in this package and pay the full recommended civil penalty of **$7,500.00**. Staff must receive the **signed Consent Agreement** within **thirty (30) days** of this NOPV. THIS OPTION DOES NOT REQUIRE TRAINING.

COMMISSIONERS:
TRICIA PRIDEMORE, Chairman
TIM G. ECHOLS, Vice-Chairman
FITZ JOHNSON
LAUREN "BUBBA" McDONALD
JASON SHAW

MICHELLE THEBERT
FACILITIES PROTECTION
UNIT DIRECTOR

Georgia Public Service Commission

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ATLANTA, GEORGIA 30334-5701

FAX: (404) 463-6532
psc.ga.gov

DAMAGE REPORT (PROBABLE VIOLATION) – PSC 22-24878

INCIDENT INFORMATION

INCIDENT DATE:	9/12/2022	MATERIAL TYPE:	Plastic
FACILITY TYPE:	Gas	SIZE:	1/2-inch
INCIDENT ADDRESS:	119 Griffin Way, Canton		
UTILITY LINE FUNCTION:	Service		
MECHANZIED EQPT.:	Backhoe/Trackhoe		

LOCATE INFORMATION

LOCATE COMPANY NAME:	USIC Locating
LOCATE NUMBER:	220907-002929
WAS FACILITY LOCATED?	Yes
LOCATE MARKS WITHIN 18 INCHES?	Yes

REPORTING INFORMATION

REPORTING COMPANY:	Atlanta Gas Light
CONTACT NAME:	Christy Rainwater
CONTACT NUMBER:	404-584-3135
MAILING ADDRESS:	Ten Peachtree Place N.E.
CITY, STATE, ZIP:	Atlanta, GA 30309
CUSTOMERS AFFECTED:	1
REPAIR COST:	$663.00

PROBABLE VIOLATOR INFORMATION

VIOLATOR COMPANY NAME:	Willoughby Landscaping, Inc.
CONTACT NAME:	Unknown
CONTACT NUMBER:	770-355-7209
MAILING ADDRESS:	Attn: John Strickland P.O. Box 1294
CITY, STATE, ZIP:	Woodstock, GA 30188

FACILITY OWNER INFORMATION

FACILITY OWNER:	Atlanta Gas Light
CONTACT NUMBER:	404-584-3135

PROBABLE VIOLATION(s)

O.C.G.A Violations

25-9-8(a) Striking, damaging, injuring or loosening any utility facility which has been staked or marked.

25-9-8(b) Failure to exercise reasonable care when excavating or blasting is to take place within the tolerance zone.

DESCRIPTION OF DAMAGES:

Willabee Landscaping damaged a 1/2-inch with a backhoe.

GEORGIA PUBLIC SERVICE COMMISSION
GEORGIA UTILITY FACILITY PROTECTION ACT

NOPV / INCIDENT REPORT – PSC 22-24878

Mail, Fax or e-mail to:	Georgia Public Service Commission Facilities Protection Unit 244 Washington Street, SW Atlanta, Georgia 30334
Investigator:	Onterio Johnson
Work Number:	(404) 463-6526
Website:	www.psc.state.ga.us
Docket Number:	44927
Case Number:	PSC 22-24878
Report Date:	9/30/2022
Incident Date:	9/12/2022
Facility Owner:	Atlanta Gas Light
Facility Owner Phone:	404-584-3135
Locator:	USIC Locating
Locator Phone:	317-810-8077
Excavator:	Willabee Landscaping, Inc.
Excavator Phone:	770-355-7209
Violator:	Willoughby Landscaping, Inc.
Contact:	Unknown
Address:	Attn: John Strickland P.O. Box 1294
City, State, Zip	Woodstock, GA 30188
Incident Location:	119 Griffin Way
Incident City:	Canton
Incident County:	Cherokee
Jurisdiction:	NOT REPORTED

UTILITY LINE IMPACT

Facility Type:	Gas
Material Type:	Plastic
Size (Diameter/Voltage/Pairs/etc.):	1/2-inch
Pressure (PSIG/Inches):	MP
Utility Line Function:	Service
Number of Customers Affected:	1
Repair Cost:	$663.00

INCIDENT IMPACT

Injury (# of outpatient care):	0
Injury (# of inpatient care):	0
Fatalities:	0
Fire Department Response:	Unknown
Police Department Response:	Unknown

EXCAVATION ACTIVITIES

Utility Ticket Number(s):	220907-002929
Equipment Involved:	Backhoe/Trackhoe
Nature of Excavation:	Irrigation
Direction of Excavation Relative to Damaged Utility Line:	

SYNOPSIS

According to a submitted report of a probable violation, Willoughby Landscaping, Inc. was excavating at 119 Griffin Way, Canton Georgia on September 12, 2022. Atlanta Gas Light reported this incident because Willoughby Landscaping, Inc. struck and damaged a marked gas service facility and failed to exercise reasonable care while excavating within the tolerance zone.

INVESTIGATION:

Staff from the Facilities Protection Unit of the Georgia Public Service Commission received notification of probable violation from Atlanta Gas Light regarding the damage that occurred at 119 Griffin Way, Canton Georgia on September 12, 2022. The submitted Atlanta Gas Light damage report indicates Willoughby Landscaping, Inc. caused damage to a ½-inch plastic gas service facility. According to the report, the contractor was installing an irrigation system and while excavating with mechanized equipment, Willoughby Landscaping, Inc. struck and damaged a marked buried gas service facility. This incident was reported as a violation of OCGA 25-9-8(a) Striking, damaging, injuring, or loosening any utility facility which has been staked or marked. OCGA 25-9-8(b) Failure to exercise reasonable care when excavating or blasting is to take place within the tolerance zone.

Staff searched Georgia (811) locate request database and was able to find a valid locate ticket. According to the (811) positive response database, Atlanta Gas Light responded to the locate request, and the gas service was marked before the incident. Thus far, based on this initial information submitted by Atlanta Gas Light: It appears that Willoughby Landscaping, Inc. may be in violation, pending a response to this Notice of Probable Violation.

CONCLUSION:

The Pipeline/Facilities Safety Staff found **Willoughby Landscaping, Inc.** in violation of:

O.C.G.A. Violations

25-9-8(a) Striking, damaging, injuring or loosening any utility facility which has been staked or marked.

25-9-8(b) Failure to exercise reasonable care when excavating or blasting is to take place within the tolerance zone.

This investigation is pending the excavator's (your) response. If no response is submitted, staff will proceed to hearing based solely on the information submitted by the facility owner.

Note: The information you provide will not close the case, it will assist the investigator in his/her investigation to arrive at a more informed conclusion.

COMMISSIONERS:
TRICIA PRIDEMORE, Chairman
TIM G. ECHOLS, Vice-Chairman
FITZ JOHNSON
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JASON SHAW

MICHELLE THEBERT
FACILITIES PROTECTION
UNIT DIRECTOR

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ATLANTA, GEORGIA 30334-5701

FAX: (404) 463-6532
psc.ga.gov

DAMAGE REPORT (PROBABLE VIOLATION) – PSC 22-24879

INCIDENT INFORMATION

INCIDENT DATE:	2/24/2021	MATERIAL TYPE:	Plastic
FACILITY TYPE:	Gas	SIZE:	1/2-inch
INCIDENT ADDRESS:	953 Rittenhouse Way, Lot 8, Atlanta		
UTILITY LINE FUNCTION:	Service		
MECHANZIED EQPT.:	Backhoe/Trackhoe		

LOCATE INFORMATION

LOCATE COMPANY NAME:	USIC Locating
LOCATE NUMBER:	
WAS FACILITY LOCATED?	Yes
LOCATE MARKS WITHIN 18 INCHES?	Yes

REPORTING INFORMATION

REPORTING COMPANY:	Atlanta Gas Light
CONTACT NAME:	Christy Rainwater
CONTACT NUMBER:	404-584-3135
MAILING ADDRESS:	Ten Peachtree Place N.E.
CITY, STATE, ZIP:	Atlanta, GA 30309
CUSTOMERS AFFECTED:	1
REPAIR COST:	$1,095.00

PROBABLE VIOLATOR INFORMATION

VIOLATOR COMPANY NAME:	Willoughby Landscaping, Inc.
CONTACT NAME:	John Strickland
CONTACT NUMBER:	770-355-7209
MAILING ADDRESS:	850 Old Alpharetta Road
CITY, STATE, ZIP:	Alpharetta, GA 30005

FACILITY OWNER INFORMATION

FACILITY OWNER:	Atlanta Gas Light
CONTACT NUMBER:	404-584-3135

PROBABLE VIOLATION(s)

O.C.G.A Violations

25-9-6(g) Failure of the locate ticket holder to maintain the integrity of the locate marks when subcontractor is performing the actual work.

DESCRIPTION OF DAMAGES:

While excavating with mechanized equipment, Willoughby Landscaping damaged a 1/2-inch gas service line

GEORGIA PUBLIC SERVICE COMMISSION
GEORGIA UTILITY FACILITY PROTECTION ACT

NOPV / INCIDENT REPORT – PSC 22-24879

Mail, Fax or e-mail to:	Georgia Public Service Commission Facilities Protection Unit 244 Washington Street, SW Atlanta, Georgia 30334
Investigator:	Onterio Johnson
Work Number:	(404) 463-6526
Website:	www.psc.state.ga.us
Docket Number:	44927
Case Number:	PSC 22-24879
Report Date:	3/5/2021
Incident Date:	2/24/2021
Facility Owner:	Atlanta Gas Light
Facility Owner Phone:	404-584-3135
Locator:	USIC Locating
Locator Phone:	317-810-8770
Excavator:	Willoughby Landscaping, Inc.
Excavator Phone:	770-355-7209
Violator:	Willoughby Landscaping, Inc.
Contact:	John Strickland
Address:	850 Old Alpharetta Road
City, State, Zip	Alpharetta, GA 30005
Incident Location:	953 Rittenhouse Way, Lot 8
Incident City:	Atlanta
Incident County:	Fulton
Jurisdiction:	NOT REPORTED

UTILITY LINE IMPACT

Facility Type:	Gas
Material Type:	Plastic
Size (Diameter/Voltage/Pairs/etc.):	1/2-inch
Pressure (PSIG/Inches):	Medium
Utility Line Function:	Service
Number of Customers Affected:	1
Repair Cost:	$1,095.00

INCIDENT IMPACT

Injury (# of outpatient care):	0
Injury (# of inpatient care):	0
Fatalities:	0
Fire Department Response:	Unknown
Police Department Response:	Unknown

EXCAVATION ACTIVITIES

Utility Ticket Number(s):	
Equipment Involved:	Backhoe/Trackhoe
Nature of Excavation:	Landscaping
Direction of Excavation Relative to Damaged Utility Line:	

SYNOPSIS

According to a submitted report of probable violation, Willoughby Landscaping, Inc. was excavating at 953 Rittenhouse Way, Atlanta Georgia on February 24, 2021. Atlanta Gas Light reported this incident because Willoughby Landscaping, Inc. struck and damaged a marked gas service line after they failed to maintain the integrity of the locate marks.

INVESTIGATION:

Staff from the Facilities Protection Unit of the Georgia Public Service Commission received a notification of probable violation from Atlanta Gas Light regarding the damage that occurred at 953 Rittenhouse Way, Atlanta Georgia on February 24, 2021. The submitted Atlanta Gas Light damage report indicates that Willoughby Landscaping, Inc. caused damage to a ½-inch plastic gas service line. The contractor was grading and clearing an area and while excavating with mechanized equipment, Willoughby Landscaping, Inc. struck and damaged a buried gas service facility. According to Atlanta Gas Light, damage occurred because the contractor failed to maintain the locate marks. This incident was reported as a violation of OCGA 25-9-6(g) Failure of the locate ticket holder to maintain the integrity of the locate marks when subcontractor is performing the actual work.

Staff conducted a search of the Georgia (811) locate request database and was able to find a valid locate ticket present. According to the Positive Response database, the gas service was marked prior to the incident. Locate marks destroyed or faded at the time of incident. Thus far, based on this initial information submitted by Atlanta Gas Light; It appears Willoughby Landscaping, Inc. may be in violation, pending a response to this Notice of Probable Violation.

CONCLUSION:

The Pipeline/Facilities Safety Staff found **Willoughby Landscaping, Inc.** in violation of:

O.C.G.A. Violations

25-9-6(g) Failure of the locate ticket holder to maintain the integrity of the locate marks when subcontractor is performing the actual work.

This investigation is pending the excavator's (your) response. If no response is submitted, staff will proceed to hearing based solely on the information submitted by the facility owner.

Note: The information you provide will not close the case, it will assist the investigator in his/her investigation to arrive at a more informed conclusion.

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BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION
STATE OF GEORGIA

IN THE MATTER OF:

Willoughby Landscaping, Inc.,
RESPONDENTS

CASE NUMBER: PSC 22-24878 and 22-24879

CONSENT AGREEMENT

Willoughby Landscaping, Inc., ("Respondent(s)"), hereby agrees to presentation of the following proposed disposition of the above named matter to the Georgia Public Service Commission ("Commission"):

FINDINGS AND CONCLUSIONS:

1.

The Commission has the power and authority to enforce the provisions of the Georgia Utility Facility Protection Act, ("Act"), O.C.G.A. T. 25, Ch. 9.

2.

The Commission received a Notice of Probable Violation ("NOPV"), alleging that on 9/12/2022 and 2/24/2021, Respondent(s) violated O.C.G.A. T. 25, Ch. 9. The Staff has recommended to the Commission that the NOPV be resolved pursuant to the terms set forth in this Consent Agreement.

AGREEMENT

By signing below, Respondent(s) hereby agree that this matter should be resolved as follows:

1.

This Consent Agreement, if approved by the Commission, shall constitute a final resolution of this proceeding. Respondent(s) agree that each will abide by the terms of this Consent Agreement.

2.

Respondent(s) agree that each will comply with all applicable provisions of the Act.

3.

Respondent(s) agree to pay to the Commission a penalty of $7,500.00 within thirty (30) days after the date of an Order issued by the Commission approving of this Consent Agreement. Payment must be forwarded to:

Georgia Public Service Commission
Facilities Protection Unit
244 Washington Street, S.W.
Atlanta, Georgia 30334-5701

All payment of penalties must be remitted in certified funds: money order, cashier's check, or official check.

Personal/Company checks will not be accepted.

4.

If Respondent(s) choose training in lieu of paying $6,000.00 of the penalty described above, Respondent(s) agree to promptly complete a training program acceptable to the Commission, ***minimum of five (5) employees required to attend training***. **The respondent will be responsible for completing the training class and submitting the remaining $1,500.00 penalty in certified funds or cashier's check to the Georgia Public Service Commission.**

5.

Respondent(s) understands that all payments will be processed upon receipt. However, this does not release the Respondent of the terms of this agreement.

6.

Respondent(s) understands that failure to comply with the terms of this Consent Agreement could subject each to additional penalties.

7.

This Consent Agreement shall not become effective until and unless approved by the Commission. Respondent(s) enter into this Consent Agreement without admission of fault or liability.

8.

The undersigned authorized representative of the Respondent(s) acknowledges that he/she has read this Consent Agreement and understands its contents. The undersigned representative acknowledges that the undersigned party freely, knowingly and voluntarily enters into this agreement. The undersigned representative hereby consents to the resolution of this proceeding as provided herein.

This _____ day of _____, 20__.

Consented to:
(***Sign, date, and mail, email, or fax***)

_____

On behalf of: Willoughby Landscaping, Inc.

PSC 22-24878 and 22-24879

"GUFPA" Questionnaire

PSC 22-24878 and 22-24879, Docket No. 44927

Please answer all questions in a written statement and include your case number on each page.

1. Name of entity (company, corporation, municipality, etc.) submitting this information?

2. Name of person submitting this information and title or position in the company or corporation?

3. Is this business incorporated? If incorporated, how so (corporation or limited liability)? In what state? Name and full address of the corporation's Registered Agent? If not incorporated, how is the business organized (i.e. partnership, sole proprietor, "D/B/A" or other)? Name and full address of the businesses highest ranking official (i.e. president or chief executive officer)?

4. Was a locate request made with **Georgia 811/Utilities Protection Center** prior to beginning excavation? If so, when and by whom? Provide the ticket number and the name of the company/party requesting the locate? Legal date of ticket? Expiration date of ticket? Provide name of party performing the excavation if different from ticket holder? Please provide a copy of all locate tickets associated with this excavation.

5. Was any other contractor (i.e. primary or subcontractor) involved? If subcontractor involved, is there a signed contractor agreement of responsibility? If subcontractor involved, is there a signed contract allowing one party to work under the locate ticket of another? Please provide a copy all contracts associated with this excavation.

6. Were you working under an emergency locate request? If so, please ***describe in detail*** what qualifies this as an emergency situation and describe what actions you took to perform your excavation with reasonable care in order to prevent damage to the underground facilities.

   Please note: An emergency as defined by the Georgia Utility Facility Protection Act means there is an *immediate danger* to life or property or the loss of utility service requiring *immediate action*. Even in an emergency situation, the excavator is held responsible for exercising reasonable care in carrying out its excavation activities and is held responsible for any damage such activities might cause. Furthermore, there is no required show-up time for an emergency locate. The only timeframe required for performing locates by the facility owner/operator is 48 hours beginning the next business day as contained in 25-9-7 of the dig law.

7. Did you physically white-line **OR** "describe with sufficient particularity" (verbal white-lining), the area of excavation, prior to the utility owner/operator marking their facilities? Please provide proof thereof? If not, explain.

"GUFPA" Questionnaire

PSC 22-24878 and 22-24879, Docket No. 44927

8. Did your company utilize the Positive Response Information System through **Georgia 811/Utilities Protection Center** to verify that all utility owner/operators had responded prior to your beginning excavation? Please provide a copy of the Positive Response information for each locate ticket associated with this excavation? If not, explain.

9. Was locate marking done within the allotted time frame? If not, was a second request made to **Georgia 811/Utilities Protection Center**?

10. Were any/all utilities marked? If not, explain.

11. Please provide evidence (signed witness statements which must include name, address and contact number for each witness, pictures, maps, diagrams and any other written documentation) that supports each of the above responses.

12. Were the utilities marked accurately (within 18" of either side of the facility)? Were pictures taken of the utility markings prior to excavation? If so, please provide copies and any other supporting documentation.

13. Were the utilities "potholed" prior to excavation to get a visual of the utilities and exposed with non-mechanized means to prevent damage (i.e. shovel, hand tools, etc.)?

14. What type of work was being performed when the incident occurred (i.e. installing CATV, landscaping, grading, installing irrigation, etc.)?

15. What type of equipment or machinery was being used when the incident occurred (i.e. backhoe, mechanical auger, directional drill, etc.)?

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16. Was the direction of excavation parallel or perpendicular to the damaged utility?

17. Did excavation cease after the damage occurred?

18. Was Georgia 811/Utilities Protection Center contacted after the incident occurred? If yes, provide the damage ticket number and a copy of each damage ticket associated with this excavation.

19. Was 911 called for all damages to natural gas facilities?