FILED
FEB 05 2024
EXECUTIVE SECRETARY
G.P.S.C.

DOCKET# 44085
DOCUMENT# 217323

COMMISSIONERS:

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

REECE McALISTER
EXECUTIVE DIRECTOR

SALLIE TANNER
EXECUTIVE SECRETARY

Georgia Public Service Commission

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DOCKET NO. 44085 Arryo's Construction, LLC; PSC Case No. 21-23199

FINAL ORDER

MAILED
2.7.2024

APPEARANCES:

Georgia Public Service Commission Staff: Janey Chauvet

Arryo's Construction, LLC: No appearance

PROCEDURAL HISTORY

On December 13, 2023, the Georgia Public Service Commission ("Commission") conducted an evidentiary hearing in order to hear and receive evidence of an alleged violation of the Georgia Underground Facility Protection Act ("GUFPA") by the Respondent, Arryo's Construction, LLC No appearance was entered by the Respondent at that hearing. Subsequent to the hearing, the Commission entered an order on September 6, 2022 finding that the Respondent's actions had indeed violated O.C.G.A. § 25-9-6(a) and 25-9-8(e) (collectively, the "Violations"). The Commission ordered that the Respondent be assessed a penalty pursuant to O.C.G.A. § 25-9-13(h)(7). A penalty in the amount of $10,00 was ordered and the Respondent was provided an opportunity to mitigate $8,000 of the penalty by completing a Commission approved damage prevention training program (the "Original Civil Penalty").

On September 19, 2023, the Commission issued a Final Order to address Respondents failure to have complied with the Commission's Final Orders dated. Specifically, the Commission asserted the following:

1. The Commission has the power and authority to enforce the provisions of O.C.G.A. T46, Ch 2-91.
2. The Commission issued Orders on September 6, 2022, requiring payment of a civil penalty and/or completion of a damage prevention-training program for Respondent committing the Violations. Respondent has neither paid the civil penalty nor completed a damage prevention course, thus violating the terms of the Order issued by the Commission.

A proceeding was held in accordance with O.C.G.A. § 46-2-91 on December 13, 2023.

FINDINGS AND CONCLUSIONS

Based upon the testimony of all witnesses, the documentary evidence at the evidentiary hearing, and an assessment of the credibility of the witnesses and evidence at this proceeding, the Commission hereby makes the following findings of fact and conclusions of law with respect to the issues involved in this case:

Morgan Mitchell testified in this proceeding on behalf of Commission Staff. Ms. Mitchell is the assistant to the GUFPA Program Managers for the Commission's Pipeline and Facilities Safety Section and is generally responsible for the delivery of consent agreements, Notice of Hearings, and Final Orders to probable violators of the GUFPA and/or O.C.G.A. § 46-2-91.

During the hearing Staff entered Exhibits 1 and 2 into evidence. Exhibit 1 was a chart that detailed information regarding the Final Order, Notice of Hearing and the date of service for both the Final Order and Notice of Hearing. Exhibit 2 included copies of the Final Order, Notice of Hearing and supporting documents for the date of service for both the Final Order and Notice of Hearing.

On September 6, 2022, the Commission issued a Final Order in this docket finding that the Respondent committed the Violations, and provided Respondent thirty (30) days from the date of the Final Order to pay the Original Civil Penalty.

Ms. Mitchell testified that the Commission's Final Order was mailed to Respondents by regular mail. Per Ms. Mitchell, the regular mail copy of the Final Order was not returned.

Ms. Mitchell testified that as of the date of this proceeding, Respondents had failed to comply with the Order of the Commission in this Docket. Specifically, Respondents had failed to pay the penalty and/or to mitigate a portion thereof through damage prevention training class and further, Respondents had not given any adequate explanation therefore.

Ms. Mitchell testified that Respondents were provided notice of this proceeding by both regular and certified mail. The certified mail receipt and signed return receipt indicating the delivery of the Notice of Hearing and Procedural and Scheduling Order for this proceeding were entered into evidence as part of Staff Exhibit #2. Per Ms. Mitchell, the regular mail copy of the Notice of Hearing was not returned.

As of the date of this proceeding, Respondents had not given any adequate explanation for having failed to comply with the Commission's Final Order of September 6, 2022.

Based upon the facts and circumstances presented in this case, and in accordance with O.C.G.A. § 46-2-91(b), the Commission finds that Respondents have failed to comply with a lawful Order of this Commission.

PENALTIES

Pursuant to O.C.G.A. § 46-2-91(a), the Commission has authority to impose a civil penalty not exceeding $15,000.00 for such violation of a Commission Order and an additional penalty not to exceed $10,000 for each day during which such violation continues. The Commission concludes that it is appropriate to impose a civil penalty against Respondents in the amount of **fifteen thousand dollars ($15,000)** for violation of O.C.G.A. § 46-2-91(a). This penalty is *in addition to* the Original Civil Penalty.

WHEREFORE IT IS ORDERED, that pursuant to O.C.G.A. § 46-2-91(a) The Commission concludes that it is appropriate to impose a civil penalty against Respondents in the amount of **fifteen thousand dollars ($15,000)** for violation of O.C.G.A. § 46-2-91(a). Respondents shall pay such civil penalty to the Commission, in certified funds, within thirty (30) days from the date of this Order.

ORDERED FURTHER, this penalty is *in addition to* those penalties already assessed by previous Commission Orders in this Docket.

ORDERED FURTHER, all findings, conclusions, and decisions contained within the preceding sections of this Order are hereby adopted as findings of fact, conclusions of law, and decisions of regulatory policy of this Commission.

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

ORDERED FURTHER, jurisdiction over this matter is expressly retained for the purpose of entering such further Order or Orders as this Commission may deem just and proper.

The above by action of the Commission in Administrative Session on the 19TH day of September, 2023.

Sallie Tanner

Sallie Tanner
Executive Secretary

2-5-24
Date

Jason Shaw
Chairman

2-5-24
Date

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF GEORGIA

Arryo's Construction, LLC	)	
	)	**DOCKET NO. 44085**
	)	**PSC Case No. 21-23199**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Final Order** was filed with the Executive Secretary of the Georgia Public Service Commission, and a copy of same was served upon all parties listed below via hand or electronic delivery as indicated, or by depositing same in the United States mail with sufficient postage thereon to ensure delivery and addressed as follows:

Sallie Tanner, Executive Secretary Georgia Public Service Commission 244 Washington Street, SW Atlanta, GA 30334 (BY HAND)	**Arryo's Construction, LLC** **Attn: Fernando Perez Arroyo** **911 Wood Terrace Court** **Doraville, GA 30340**
Ray-Kelle Preston Attorney Georgia Public Service Commission 244 Washington Street, SW Atlanta, GA 30334 (BY ELECTRONICALLY)	
Janey Chauvet Georgia Public Service Commission 244 Washington Street, SW Atlanta, GA 30334 (BY ELECTRONICALLY)	

This 7th day of February, 2024.

Maritza Rivera
Clerk
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, Georgia 30334

FILED
DEC 20 2023
EXECUTIVE SECRETARY
G.P.S.C.

DOCKET# 44085
DOCUMENT# 216834

COMMISSIONERS:

JASON SHAW, Chairman
TIM G. ECHOLS, Vice-Chairman
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DOCKET NO. 44085 Arryo's Construction, LLC; PSC Case No. 21-23199

RECOMMENDED FINAL ORDER

APPEARANCES:

Georgia Public Service Commission Staff: Janey Chauvet

Arryo's Construction, LLC: No appearance

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1. The Commission has the power and authority to enforce the provisions of O.C.G.A. T46, Ch 2-91.
2. The Commission issued Orders on September 6, 2022, requiring payment of a civil penalty and/or completion of a damage prevention-training program for Respondent committing the Violations. Respondent has neither paid the civil penalty nor completed a damage prevention course, thus violating the terms of the Order issued by the Commission.

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