FILED
MAR 21 2024
EXECUTIVE SECRETARY
G.P.S.C.

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

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

244 WASHINGTON STREET, SW
ATLANTA, GEORGIA 30334-5701

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

March 21, 2024

DOCKET# 45147
DOCUMENT# 218073

Hargray of Georgia, LLC.
dba Clearwave Fiber
1375 Chatham Parkway
Savannah, GA 31405

DOCKET NO: 45147
Case No: PSC 24-26375

Attention: Nevine White

A Notice of Probable Violation(s) ("NOPV") of the Georgia Underground Facility Protection Act ("GUFPA" or the Act") has been filed with Georgia Public Service Commission Pipeline/Facilities Safety Office ("Staff") naming Hargray of Georgia, LLC. dba Clearwave Fiber as the probable violator ('Respondent"). As you are aware, violations of the Act are punishable by civil penalties of up to $10,000 per violation.

The probable violation alleged is as follows:

O.C.G.A. Violation

> **25-9-7(a)(1) Failure of a facility owners to determine whether underground facilities are present on the land upon which blasting or excavating is to occur prior to 7:00 A.M. on the effective date, or calendar day on which blasting or excavating is anticipated to begin.**

In a warning letter sent to your company on April 20, 2023, Facilities Protection Committee Chairman Lauren "Bubba" McDonald informed your company that it had numerous probable violations of O.C.G.A. 25-9-7(a)(1) for calendar year 2022. Commissioner McDonald also notified your company that Staff will conduct additional

enforcement actions, which may include civil penalty assessments, where appropriate to address the issue.

GUFPA has reviewed your utility's responses to the Utility Protection Center's ("UPC") Positive Response Information System ("PRIS") from October 1st through December 31, 2023, and found that Hargray of Georgia, LLC. dba Clearwave Fiber responded to 1614 of late locate requests as PRIS Code "3N – Unmarked Late."

As a result of the 1614 late locate requests, **Staff is recommending a civil penalty of $807,000.** Your affirmative written response to this Consent Agreement is required within 30 days of the date of this NOPV. Failure to respond either by executing the attached 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.

The respondent will be responsible for submitting the penalty in certified funds or cashier's check to the Georgia Public Service Commission.

Thank you,

Michelle Thebert

Michelle Thebert
Director, Facilities Protection Unit
Georgia Public Service Commission

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

(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:

Hargray of Georgia, LLC. dba Clearwave Fiber
RESPONDENTS

CASE NUMBERS: PSC 24-26375

CONSENT AGREEMENT

Hargray of Georgia, LLC. dba Clearwave Fiber ("Respondent(s)"), hereby agrees to the 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 Underground Facility Protection Act, ("Act"), O.C.G.A. T. 25, Ch. 9.

2.

A representative of the Georgia Public Service Commission Facility Protection Unit/Georgia Underground Facility Protection Act (GUFPA) enforcement office performed an investigation of your utilities locating responses provided to GA811's Positive Response Information System. From October 1st through December 31, 2023, Hargray of Georgia, LLC. dba Clearwave Fiber responded to 1614 locate requests as PRIS Code "3N – Unmarked Late." These responses indicated that your company violated O.C.G.A 25-9-7(a)(1). **Staff recommended a civil penalty of $807,000.**

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 for the 1614 late locate requests for the period of October 1-December 31, 2023. 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 $807,000 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.

4.

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

5.

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.

6.

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 _____ 2024.

Consented to:

_____

On behalf of: Hargray of Georgia, LLC. dba Clearwave Fiber

BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION
STATE OF GEORGIA

IN RE: **Hargray of Georgia, LLC.**	)	**DOCKET NO. 45147**

CERTIFICATE OF SERVICE

I hereby certify that the *Notice of Probable Violation* in Docket No. 45147 was filed with the Commission's Executive Secretary and a copy of same was served upon all parties and persons listed below via electronic mail as indicated by an asterisk. I further certify that the Hargray of Georgia, *LLC.* was served a hard copy of the above-stated document by United States Mail.

*Sallie Tanner, Executive Secretary
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, GA 30334
stanner@psc.ga.gov
via electronic mail

*Nevine White, SVP Finance and Administration
Hargray of Georgia, LLC.
1375 Chatham Parkway
Savannah, GA 31405
Nevine.white@clearwavefiber.com
via electronic mail

*Michelle Thebert, Facilities Protection Unit Director
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, GA 30334
mthebert@psc.ga.gov
via electronic mail

*Ray-Kelle Preston, Staff Attorney
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, GA 30334
rpreston@psc.ga.gov
via electronic mail

*Will Culbreath, GUFPA Case Manager
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, GA 30334
wculbreath@psc.ga.gov
via electronic mail

Respectfully Submitted this 21st day of March 2024:

Cathy Nesbitt

Cathy Nesbitt, Administrative Assistant
Georgia Public Service Commission
Facilities Protection Unit
244 Washington Street, SW
Atlanta, GA 30334