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

FILED
JUL 03 2024
EXECUTIVE SECRETARY
G.P.S.C.

# Georgia Public Service Commission

REECE McALISTER
EXECUTIVE DIRECTOR

SALLIE TANNER
EXECUTIVE SECRETARY

(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 22-23930**

**DOCKET NO. 44376**

**DM Walls & Landscape Designs, L.L.C., Respondent**

DOCKET# 44376
DOCUMENT# 219250

MAILED
7.9.2024

## NOTICE OF HEARING AND PROCEDURAL AND SCHEDULING ORDER

To: **DM Walls & Landscape Designs, L.L.C.**
**Attn: Danny Maxwell**
**2622 Freemans Walk Path**
**Dacula, GA 30019**

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 18, 2024** 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 DM Walls & Landscape Designs, L.L.C. (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 February 1, 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

**25-9-6(a) Failure to contact the UPC before commencing excavation or blasting with mechanized equipment.**

**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 May 21, 2024.

Sallie Tanner
Executive Secretary

7-3-24
Date

Jason Shaw
Chairman

7-3-24
Date

COMMISSIONERS:

JASON SHAW, Chairman
TIM G. ECHOLS, Vice-Chairman
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## BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION

| | | |
|---|---|---|
| IN THE MATTER OF: | ) | |
| | ) | |
| DM Walls & Landscape Designs, L.L.C., | ) | DOCKET NO. 44376 |
| RESPONDENTS | ) | (PSC Case No. 22-23930) |
| | ) | |

## 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

DM Walls & Landscape Designs, L.L.C.
Attn: Danny Maxwell
2622 Freemans Walk Path
Dacula, GA 30019

Respectfully Submitted this 1st day of July, 2024:

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

COMMISSIONERS:
JASON SHAW, Chairman
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12/27/2023

DM Walls & Landscape Designs, L.L.C.
Attn: Danny Maxwell
2622 Freemans Walk Path
Dacula, GA 30019

**Date of Incident:** 2/1/2022
**Docket #:** 44376
**Case #:** PSC 22-23930
**Incident Location:** 5405 Jonesboro Road, Morrow

To Whom It May Concern:

A Notice of Probable Violation(s) ("NOPV") of the Georgia Underground 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(a) Failure to contact the UPC before commencing excavation or blasting with mechanized equipment.**

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 $5,000.00. Respondent may choose from one of several options regarding the alleged probable violations. Staff recommends mitigation of $4,000.00 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 $1,000.00 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**, 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,

Onterio Johnson
ojohnson@psc.ga.gov
GPSC GUFPA Investigator

# RESPONSE OPTIONS

**(Please check only one)**

**Respondent:** DM Walls & Landscape Designs, L.L.C.
**Docket #:** 44376
**Case #:** PSC 22-23930

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 Underground 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 **$1,000.00**. 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 **$5,000.00**. Staff must receive the **signed Consent Agreement** within **thirty (30) days** of this NOPV. THIS OPTION DOES NOT REQUIRE TRAINING.

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UNIT DIRECTOR

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

## DAMAGE REPORT (PROBABLE VIOLATION) – PSC 22-23930

### INCIDENT INFORMATION

| | | | |
|---|---|---|---|
| INCIDENT DATE: | 2/1/2022 | MATERIAL TYPE: | Plastic |
| FACILITY TYPE: | Gas | SIZE: | 1/2 |
| INCIDENT ADDRESS: | 5405 Jonesboro Road, Morrow | | |
| UTILITY LINE FUNCTION: | Service | | |
| MECHANZIED EQPT.: | Backhoe/Trackhoe | | |

### LOCATE INFORMATION

| | |
|---|---|
| LOCATE COMPANY NAME: | NOT REPORTED |
| LOCATE NUMBER: | 999999-999999 |
| WAS FACILITY LOCATED? | No |
| LOCATE MARKS WITHIN 18 INCHES? | No |

### 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: | DM Walls & Landscape Designs, L.L.C. |
| CONTACT NAME: | Dan Maxwell |
| CONTACT NUMBER: | (770) 990-4447 |
| MAILING ADDRESS: | Attn: Danny Maxwell<br>2622 Freemans Walk Path |
| CITY, STATE, ZIP: | Dacula, GA 30019 |

### FACILITY OWNER INFORMATION

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

### PROBABLE VIOLATION(s)

**O.C.G.A Violations**

25-9-6(a) Failure to contact the UPC before commencing excavation or blasting with mechanized equipment.

### DESCRIPTION OF DAMAGES:

RTF Construction damaged 1/2-inch plastic service with a backhoe while grading.

***Original notice was sent to RTF Construction Co., Mark Marietta, on Behalf of RTF Construction provided a written statement and documentation indicating they hired a subcontractor to perform excavation duties at the reported incident location. Based on the submitted information the Notice of Probable Violation was reissued to the subcontractor DM Walls and Landscape Design.***

**GEORGIA PUBLIC SERVICE COMMISSION**
**GEORGIA UNDERGROUND FACILITY PROTECTION ACT**

# NOPV / INCIDENT REPORT – PSC 22-23930

| | |
|---|---|
| **Mail, Fax or e-mail to:** | Georgia Public Service Commission<br>Facilities Protection Unit<br>244 Washington Street, SW<br>Atlanta, Georgia 30334 |
| **Investigator:** | Onterio Johnson |
| **Work Number:** | (404) 463-6526 |
| **Website:** | www.psc.state.ga.us |
| **Docket Number:** | 44376 |
| **Case Number:** | PSC 22-23930 |
| **Report Date:** | 2/25/2022 |
| **Incident Date:** | 2/1/2022 |
| **Facility Owner:** | Atlanta Gas Light |
| **Facility Owner Phone:** | 404-584-3135 |
| **Locator:** | NOT REPORTED |
| **Locator Phone:** | NOT REPORTED |
| **Excavator:** | DM Walls |
| **Excavator Phone:** | 770-972-4550 |
| **Violator:** | DM Walls & Landscape Designs, L.L.C. |
| **Contact:** | Dan Maxwell |
| **Address:** | Attn: Danny Maxwell<br>2622 Freemans Walk Path |
| **City, State, Zip** | Dacula, GA 30019 |
| **Incident Location:** | 5405 Jonesboro Road |
| **Incident City:** | Morrow |
| **Incident County:** | Clayton |
| **Jurisdiction:** | NOT REPORTED |

## UTILITY LINE IMPACT

| | |
|---|---|
| **Facility Type:** | Gas |
| **Material Type:** | Plastic |
| **Size (Diameter/Voltage/Pairs/etc.):** | 1/2 |
| **Pressure (PSIG/Inches):** | MP |
| **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):** | 999999-999999 |
| **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, RTF Construction, Co. was excavating at 5405 Jonesboro Road, Morrow, Georgia on February 1, 2022. Atlanta Gas Light reported this incident because RTF Construction, Co. did not have a valid locate ticket prior to excavating with mechanized equipment.

## INVESTIGATION:

Staff from the Facilities Protection Unit of the Georgia Public Service Commission received a notice of probable violation from Atlanta Gas Light regarding the damage that occurred at 5405 Jonesboro Road, Morrow, Georgia on February 1, 2022. The submitted Atlanta Gas Light damage report indicates RTF Construction, Co. caused damage to a 1/2-inch plastic gas service line. According to the report the contractor was grading and while excavating with mechanized equipment, the contractor struck and damaged a buried gas service facility. This incident was reported as a violation of OCGA 25-9-6(a) Failure to contact the UPC (Georgia 811) before commencing excavation or blasting with mechanized equipment.

Staff conducted a search of the Georgia (811) locate request database and was not able to find a valid locate ticket present. The type of work performed by contractor does require a locate request prior to excavation. Thus far, based on this initial information submitted by Atlanta Gas Light; it appears that RTF Construction, Co. may be in violation, pending a response to this Notice of Probable Violation.

## CONCLUSION:

The Pipeline/Facilities Safety Staff found **DM Walls & Landscape Designs, L.L.C.** in violation of:

**O.C.G.A. Violations**

**25-9-6(a) Failure to contact the UPC before commencing excavation or blasting with mechanized equipment.**

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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MICHELLE THEBERT
FACILITIES PROTECTION
UNIT DIRECTOR

# Georgia Public Service Commission

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

## BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION
## STATE OF GEORGIA

**IN THE MATTER OF:**

**DM Walls & Landscape Designs, L.L.C.,**
**RESPONDENTS**

**CASE NUMBER: PSC 22-23930**

# CONSENT AGREEMENT

DM Walls & Landscape Designs, L.L.C., ("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 Underground 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 2/1/2022, 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 $5,000.00 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 $4,000.00 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 $1,000.00 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: DM Walls & Landscape Designs, L.L.C.**

**PSC 22-23930**

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# REQUESTS FOR CASES TO COME BEFORE "GUFPAAC"

THE GEORGIA UNDERGROUND FACILITY PROTECTION ACT ADVISORY COMMITTEE

All requests for cases to come before the Georgia Underground Facility Protection Act Advisory Committee (GUFPAAC) shall be submitted in writing and shall be accompanied by each respondent's written response to each and every allegation listed in the notice of probable violation (NOPV) to which this notice is attached.

To better assist the Advisory Committee's preparation to review your case, the assigned investigator has requested from both the Excavator and Utility any pertinent documentation such as pictures, maps, and/or any other documentation.

Receipt of this documentation is being requested prior to the GUFPAAC meeting in order to insure the investigator and Advisory Committee both have the appropriate time in which to review all details related to your case. The admittance of additional information on the day of this meeting will be at the discretion of the Advisory Committee.

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## GUFPA Training

If your company has been assessed a civil penalty for a violation of the ACT with the offer to attend a Commission approved training class in lieu of paying the penalty, you may choose to have your employees attend damage prevention classes presented in English, Spanish or both.

**For classes in English, contact one of the following:**

Ms. Glenda Harris, Georgia Utility Contractors Association ("GUCA")
(404) 362-9995 or email: glenda@guca.com

Ms. Becky Kinsey, Georgia 811
(404) 375-6209 or email: bkinsey@georgia811.com

Mr. Ryan Boling, HB NEXT
(770) 619-1669 or (877) 442-4282 (Toll Free)

Mr. Diego Alvarado, daBaires Group
(678) 643-8278, 678-237-8192, or email: dsalvador678@gmail.com

Mr. Jimmy Davis, The Georgia Utility Training Academy ("GUTA")
(678) 635-8980 or email: guta@monroega.gov

**For classes in Spanish, contact one of the following:**

Mr. Diego Alvarado, daBaires Group
(678) 643-8278, 678-237-8192, or dsalvador678@gmail.com

Mr. Ryan Boling, HB NEXT
(770) 619-1669 or (877) 442-4282 (Toll Free)

Ms. Glenda Harris, Georgia Utility Contractors Association ("GUCA")
(404) 362-9995 or email: glenda@guca.com

If you have questions or need additional information, please call (404) 463-6526.

COMMISSIONERS:
JASON SHAW, Chairman
TIM G. ECHOLS, Vice-Chairman
FITZ JOHNSON
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FAX: (404) 463-6532
psc.ga.gov

## BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION

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|---|---|---|
| IN THE MATTER OF: | ) | |
| | ) | |
| DM Walls & Landscape Designs, L.L.C., | ) | DOCKET NO. 44376 |
| RESPONDENTS | ) | (PSC Case No. 22-23930) |
| | ) | |

## CERTIFICATE OF SERVICE

I hereby certify that this Consent Agreement was served upon all parties and persons listed below by depositing same in the United States mail.

DM Walls & Landscape Designs, L.L.C.
Attn: Danny Maxwell
2622 Freemans Walk Path
Dacula, GA 30019

Respectfully Submitted this 27th day of December, 2023:

Marilyn K. Morris-Simmons

Marilyn K. Morris-Simmons, Admin. Assistant
Facilities Protection Unit
Georgia Public Service Commission
244 Washington Street, Ste. 112
Atlanta, GA 30334

****** ATTENTION PLEASE READ ****** ****** ATTENTION PLEASE READ ******

## You have just received a Notice of Probable Violation (NOPV) from The Georgia Public Service Commission (PSC) and here is why.

Anytime a buried public utility is damaged by mechanized equipment, by law that utility operator must repair the damaged utility and then report the incident to The PSC within 30 days. That utility operator is also required by law to do an investigation to determine the cause of the damage. If the damage was a result of an error made by the Utility operator or the locate company, the utility company must report themselves to the PSC. If the damage was the result of an error made by the contractor, the utility company must report the contractor, and list the dig law violations that may have occurred during the incident. Once the incident is reported, it gets assigned to a Georgia Dig Law Investigator and a notice is mailed.

**Please keep in mind you have NOT been found in violation yet. The NOPV is sent to inform you of what has been reported against you, and is pending on a response from you. You must respond to the notice by letting your investigator know if you agree or disagree with the violations.**

**If you do NOT respond within 30 days, the PSC will proceed, finding you in violation. This decision will be based solely on the information provided by the utility operator.**

**Contact information for your investigator will be at the bottom of the first page. Please feel free to call or send an email to your investigator, they will be more than happy to assist and walk you through this process.**

# Common questions about this NOPV

## I disagree how do I respond

Check option 1 or 2 on the response options page, return that document to your investigator by USPS or email. Send a statement letting us know why you disagree, along with any documentation or photos that proves why you are not in violation. The investigator will continue the investigation based on your disagreement and will contact you once the investigation is complete.

## I agree with the violation, what do I do next?

Check option 3 or 4 on the response options page, Option 3 indicates you agree with the violations and you would like to pay the smaller mitigated penalty by sending employees to a training class. Option 4 indicates you agree with the violation but would rather pay the fine in full instead of attending training. After you've chosen an option, please sign and date the two page consent agreement and return those 3 documents to you investigator by email or USPS. If you chose option 3 you will have 30 days to get the training completed, penalty payments can be mailed or delivered to The Georgia Public Service Commission. Cashier checks or money orders are the only acceptable payment methods at this time.

## I hired a subcontractor am I responsible for the violation / I was a subcontractor am I at fault?

The Georgia dig laws falls on whom ever was operating the equipment at the time of the incident. If you receive a notice from the PSC and you hired a sub, you should disagree with the violation. Check the appropriate box, provide a statement saying who you hired and provide documentation (Invoice) and contact information on the sub. Staff at The PSC will remove your name from the notice and reissue the notice to the Subcontractor.

## How do I attend damage prevention training?

Use the GUFPA Training list that was provided in the packet to call and schedule the class. The class is a one-day class that usually last about 4 hours. After you complete training, you will get certificates of completion. The training facility will send copies of the certificates to the PSC.

## I paid the utility company for the damage why do I have to pay the PSC?

Payment made for the repair cost to the utility company is a civil matter. That repair payment has no bearing over the possible penalty amounts for a violation of the state dig law.