DOCKET# 55259
DOCUMENT# 219455

COMMISSIONERS:

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

FILED
JUL 24 2024
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

IN THE MATTER OF:

MAILED
7.29.2024

Case Nos. 23-25572

DOCKET NO. 55259

Circle Lee Fencing, LLC;

FINAL ORDER

APPEARANCES:

Georgia Public Service Commission Staff: Chesley Dix

RESPONDENT: No appearance

PROCEDURAL HISTORY

On June 2, 2023, while working at 35 Candy Lilly Lane in Dallas, **Circle Lee Fencing, LLC** ("Respondent") caused damage to a utility facility while using mechanized equipment. Following its investigation of this incident, Commission Staff determined that the Respondent was in violation of O.C.G.A. §§ 25-9-8(a) and 25-9-8(b) (the "Violations"), sections of the Georgia Underground Facilities Protection Act ("GUFPA"). Staff recommended, through Consent Agreement, that Respondent be assessed a $5,000 civil penalty with the ability to mitigate $4,000 by completing a Commission approved damage prevention training program.

On January 2, 2024, the Commission issued a Notice of Hearing and Procedural and Scheduling Order. Respondent was advised that a hearing would be held for the purpose of hearing evidence regarding the Violations and that, if proven, such Violations may result in the imposition of a civil penalty as provided by law.

On April 3, 2024, a hearing was conducted in this Docket, at which time the Commission's Hearing Officer heard testimony from Staff witnesses. Staff entered two exhibits into evidence. Exhibit 1 was a chart that detailed information regarding: the incident date and location, violation cited, terms of Consent Agreement, date of service for both Consent Agreement and Notice of Hearing, and status of certified mail return receipt for Notice of Hearing. Exhibit 2 included copies of: The Notice of Probable Violation, Incident Investigation Report, Consent Agreement, Notice of Hearing and Procedural and Scheduling Order, Certified Mail Return Receipt and other supporting documentation. At the hearing, several issues were presented for determination, including whether Respondent committed the Violations and whether the Respondent should be penalized pursuant to O.C.G.A § 25-9-14(k)(7) [pursuant to O.C.G.A § 25-9-13(h)(7) prior to September 2022] in an amount of up to $10,000.00 for each violation.

FINDINGS AND CONCLUSIONS

Staff witnesses Ben Stair and Morgan Mitchell testified at the proceeding. Mr. Stair is an investigator with the Facility Protection section of the Commission and is generally responsible for investigating notices of probable violation of the Act. Ms. Mitchell is an administrative assistant with the Facility Protection section of the Commission and is generally responsible for the delivery of consent agreements, Notice of Hearings, and Final Orders to probable violators of GUFPA and O.C.G.A. § 46-2-91. Mr. Stair submitted a detailed copy of his report of the investigation. Based on the probable violation damage reports filed by the utility and upon further investigation into the matter, Mr. Stair determined that:

1. Respondent struck, injured, or loosened any utility facility which had been staked or marked in violation of O.C.G.A. § 25-9-8(a); and
2. Respondent failed to exercise reasonable care when blasting or excavating is to take place within the tolerance zone in violation of O.C.G.A. § 25-9-8(b).

Based upon the facts and circumstances presented in this case, the Commission finds that Respondent committed the Violations.

PENALTIES

Pursuant to O.C.G.A § 25-9-14(k)(7), the Commission has the authority to impose a civil penalty not exceeding $10,000.00 for each violation of the Act, if it is proven that any person violated any provision of the Act as a result of a failure to exercise reasonable care.

WHEREFORE IT IS ORDERED, that pursuant to O.C.G.A § 25-9-14(k)(7) a civil penalty in the amount of **$6,000** be imposed against Respondent for the above cited violations. Respondent shall pay such civil penalty to the Commission, in certified funds, within thirty (30) days from the date of this Order.

ORDERED FURTHER, that Respondent may mitigate $4,000 of the civil penalty ordered in this case by a minimum of five (5) employees completing a Commission-approved damage prevention training course within forty-five (45) days from the date of this Order.

ORDERED FURTHER, that 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, that 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, that 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 2nd day of July 2024.

Sallie Tanner

Sallie Tanner
Executive Secretary

7-24-24

Date

Jason Shaw
Chairman

7-24-24

Date

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF GEORGIA

DOCKET NO. 55259	Circle Lee Fencing, LLC;	Case Nos. 23-25572

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 insure delivery and addressed as follows:

Sallie Tanner, Executive Secretary Georgia Public Service Commission 244 Washington Street, SW Atlanta, GA 30334 (BY HAND)	Circle Lee Fencing, LLC 205 A C Drive Dallas, GA 30132
Chesley Dix Georgia Public Service Commission 244 Washington Street, SW Atlanta, GA 30334 (BY ELECTRONICALLY)	ZenBusiness, Inc., registered agent c/o Circle Lee Fencing, LLC 3390 Peachtree Road NE, Suite 320 Atlanta, GA 30326
Ray-Kelle Preston Georgia Public Service Commission 244 Washington Street, SW Atlanta, GA 30334 (BY ELECTRONICALLY)	

This 29th day of July, 2024.

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

FILED
APR 23 2024
EXECUTIVE SECRETARY
G.P.S.C.

DOCKET# 55259
DOCUMENT# 218447

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

IN THE MATTER OF:

Case Nos. 23-25572 **DOCKET NO. 55259**

Circle Lee Fencing, LLC;

RECOMMENDED FINAL ORDER

APPEARANCES:

Georgia Public Service Commission Staff: Chesley Dix

RESPONDENT: No appearance

PROCEDURAL HISTORY

On June 2, 2023, while working at 35 Candy Lilly Lane in Dallas, **Circle Lee Fencing, LLC** ("Respondent") caused damage to a utility facility while using mechanized equipment. Following its investigation of this incident, Commission Staff determined that the Respondent was in violation of O.C.G.A. §§ 25-9-8(a) and 25-9-8(b) (the "Violations"), sections of the Georgia Underground Facilities Protection Act ("GUFPA"). Staff recommended, through Consent Agreement, that Respondent be assessed a $5,000 civil penalty with the ability to mitigate $4,000 by completing a Commission approved damage prevention training program.

On January 2, 2024, the Commission issued a Notice of Hearing and Procedural and Scheduling Order. Respondent was advised that a hearing would be held for the purpose of hearing evidence regarding the Violations and that, if proven, such Violations may result in the imposition of a civil penalty as provided by law.