

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on July 13, 2017

COMMISSIONERS PRESENT:

John B. Rhodes, Chair  
Gregg C. Sayre  
Diane X. Burman  
James S. Alesi

CASE 17-G-0339 - In the Matter of an Enforcement Proceeding  
Against Able Plumbing Water Mains & Sewer LTD  
for Alleged Violations of 16 NYCRR Part 753 -  
Protection of Underground Facilities, in the  
Service Territory of The Brooklyn Union Gas  
Company d/b/a National Grid NY.

ORDER DETERMINING PENALTY AND DIRECTING PAYMENT

(Issued and Effective July 24, 2017)

BY THE COMMISSION:

Respondent Information

Company Name: Able Plumbing Water Mains & Sewer LTD  
(Able Plumbing)  
Address: 40 Lasalle Street  
Staten Island, NY 10303

Alleged Violation Specifics

Date of Violation: May 3, 2016  
Location: 270 Kingston Avenue  
Redhook, NY  
Description of  
Excavation Work: Repairing a sewer service  
Damaged Facility: 1¼-inch plastic low-pressure natural  
gas service  
Alleged Code  
Violation: 753-3.6(a)

Description of Violation: Failure to verify location of marked facilities by means of hand-dug test hole prior to using powered machinery within the tolerance zone

Notice of Probable Violation (NOPV) Information

On or about February 13, 2017, copies of the NOPV were mailed to the Respondent by both United States Postal Service First Class Mail and certified mail, return receipt requested. While we did not receive a signed certified mail return receipt, neither the First Class nor the certified mail copies were returned, and Staff confirmed delivery using the United States Postal Service's tracking number.

Proposed Penalty: \$2,500

Response: Did not respond

Summary of Information Provided by Respondent: Not Applicable

Analysis of Evidence

16 NYCRR §753-3.6(a) states:

Powered or mechanized equipment may be used within the tolerance zone for removal of pavement or masonry but only to the depth of such pavement or masonry.

Staff confirmed through National Grid's damage investigation report that a valid one-call notification was provided by Able Plumbing, that the facilities were marked accurately, and that there were no indications of a hand-dug test hole having been performed.

No response to the NOPV was received. The NOPV stated that failure to respond would be deemed acceptance of the facts as alleged, in which case the proposed penalty would be determined.

Determination

We find that Able Plumbing Water Mains & Sewer LTD did commit a violation of 16 NYCRR §753-3.6(a), which resulted in damage to a 1¼-inch plastic low-pressure natural gas service. In consideration of the nature, circumstances and gravity of the violation, we determine a penalty of \$2,500 is appropriate for this violation.

We also strongly encourage the Respondent to contact New York 811 (516-639-8606) to request a training session covering the use of the one-call notification system and Part 753 requirements. The principals of the company, any employees involved in excavation work, and any support staff that might be involved in making notifications to the one-call center, would benefit from such training.

The Commission orders:

1. A penalty of \$2,500 is determined against Able Plumbing Water Mains & Sewer LTD pursuant to §119-b(8) of the Public Service Law.

2. Able Plumbing Water Mains & Sewer LTD is directed to remit, by certified check payable to the "Department of Public Service," the sum of \$2,500 in payment of the penalty determined. The \$2,500 sum is subject to Section 18 of the State Finance Law and shall be deposited into the underground facilities safety training account. The check shall be addressed to:

Ms. Carol Gnacik  
Director of Finance and Budget  
Department of Public Service  
Three Empire State Plaza  
16<sup>th</sup> Floor  
Albany, N.Y. 12223-1350

3. If the check is not received within 30 days after issuance of this Order, Staff is authorized to refer the case to the New York State Department of Law with a request that an action to collect the determined penalty be brought in a court of competent jurisdiction.

4. The proceeding is continued, pending compliance with Ordering Clause 2, following which it should be closed.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS  
Secretary