

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on December 14, 2017

COMMISSIONERS PRESENT:

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

CASE 17-G-0695 - In the Matter of an Enforcement Proceeding
Against H. Langdon Garage Builders & Supply,
Inc. for Alleged Violations of 16 NYCRR Part
753 - Protection of Underground Facilities, in
the Service Territory of Niagara Mohawk Power
Corporation, d/b/a National Grid.

ORDER DETERMINING PENALTY AND DIRECTING PAYMENT

(Issued and Effective December 27, 2017)

BY THE COMMISSION:

Respondent Information

Company Name: H. Langdon Garage Builders & Supply,
Inc. (Langdon Garage Builders)

Address: 187 County Route 57
Phoenix, NY 13135

Alleged Violation Specifics

Date of Violation: April 13, 2017

Location: 2054 West Genesee Road
Baldwinsville, NY

Description of
Excavation Work: Digging for a garage slab

Damaged Facility: ½-inch plastic high-pressure natural
gas service

Alleged Code
Violation: 753-3.1(a)(1)

Description of Violation: Failure to provide notice of intent to excavate to the one-call notification system

Notice of Probable Violation (NOPV) Information

On or about April 24, 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 the certified mail copy was returned unclaimed, the regular mail copy was not returned.

Proposed Penalty: \$2,500

Response: Letter dated May 1, 2017

Summary of Information Provided by Respondent

Langdon Garage Builders stated that it was moving a shed where the grass was "soft and mushy", which required it to remove the top soil to a depth of approximately 6 inches. The damaged natural gas service was assumed, by Langdon Garage Builders, to be at an approximate depth of 18 inches; therefore, not in conflict with its' excavation work.

Analysis of Evidence

16 NYCRR §753-3.1(a) (1) states:

Before commencing or engaging in any non-emergency excavation or demolition, each excavator shall provide notice of the location and date of the planned excavation or demolition to the one-call notification system serving the vicinity in which the excavation or demolition is to take place.

Pursuant to 16 NYCRR §753-3.1(a) (1), the entity performing the excavation work, regardless of depth, is responsible for providing notice of intent to excavate to the one-call notification system.

Staff offered to resolve this matter with a reduced penalty provided H. Langdon Garage Builders & Supply, Inc. completed training with Dig Safely New York. H. Langdon Garage Builders & Supply, Inc. declined that offer.

Determination

We find that H. Langdon Garage Builders & Supply, Inc. did commit a violation of 16 NYCRR §753-3.1(a)(1), which resulted in damage to a ½-inch plastic high-pressure natural gas service. While the Respondent has no history of prior violations, 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 Dig Safely New York (315-437-7394) 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 H. Langdon Garage Builders & Supply, Inc. pursuant to §119-b(8) of the Public Service Law.

2. H. Langdon Garage Builders & Supply, Inc. 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
16th 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