

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on April 18, 2013

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
James L. Larocca
Gregg C. Sayre

CASE 13-G-0135 - In the Matter of an Enforcement Proceeding
Against Rock Solid Landscape and Masonry
Design Inc. for Alleged Violations of 16 NYCRR
Part 753 - Protection of Underground
Facilities, in the Service Territory of
KeySpan Gas East Corporation d/b/a National
Grid.

ORDER DETERMINING PENALTY AND DIRECTING PAYMENT

(Issued and Effective April 29, 2013)

BY THE COMMISSION:

Respondent Information

Company Name: Rock Solid Landscape and Masonry Design
Inc.

Address: 516 Industrial Loop
Staten Island, NY 10309

Alleged Violation Specifics

Date of Violation: October 11, 2012

Location: 200 Woodvale Avenue
Staten Island, N.Y.

Description of
Excavation Work: Curbs and sidewalks

Damaged Facilities: ½-inch natural gas service

Alleged Code
Violation(s): 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

Date of NOPV: February 7, 2013
Proposed Penalty: \$1,000
Response: Did not respond

Summary of Information
Provided by Respondent: Not Applicable

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.

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

Determination

We find that Rock Solid Landscape and Masonry Design Inc. did commit a violation of 16 NYCRR §753-3.1(a)(1), which resulted in damage to a ½-inch 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 \$1,000 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 determines:

1. A penalty of \$1,000 is determined against Rock Solid Landscape and Masonry Design Inc. pursuant to §119(b)(8) of the Public Service Law.

2. Rock Solid Landscape and Masonry Design Inc. is directed to remit, by certified check payable to the "Department of Public Service" the sum of \$1,000 in payment of the penalty determined. The \$1,000 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)

JEFFREY C. COHEN
Acting Secretary