

CONSENT ORDER APPROVAL

CASE: 17-G-0216 - In the Matter of an Enforcement Proceeding Against Pioneer Asphalt Paving Contractors, LLC 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.

Company Name: Pioneer Asphalt Paving Contractors, LLC  
(Pioneer Asphalt)

Principal Contact: Mr. Michael Cox

Address: 168 Townline Road  
Kings Park, NY 11754

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

Date of Violation: September 22, 2015

Damaged Facility: 1-inch natural gas service

Date of NOPV: November 14, 2016

Response: Letter dated November 23, 2016

Proposed Penalty: \$4,000

Circumstances

On August 29, 2016, Pioneer Asphalt admitted to a violation of 16 NYCRR 753-3.1(a)(1), which occurred on April 25, 2015, at Union Avenue, Bethpage, NY. Under General Business Law §765(1)(a), entities that fail to comply with the requirements of 16 NYCRR Part 753 are subject to a civil penalty of \$2,500 for the first offense and an additional \$10,000 for each succeeding violation that occurs within a 12-month period. On

March 30, 2017, Pioneer Asphalt admitted to a separate violation of 16 NYCRR 753-3.1(a)(1), which occurred on September 22, 2015, five months after the April 25, 2015 violation at One 9<sup>th</sup> Avenue, East Northport, NY.

Pioneer Asphalt stated that the removal of a concrete apron was added to its scope of work after the September 22, 2015 project had already begun and acknowledged that it failed to provide notice of intent to excavate to the one-call notification system for this additional excavation work. Pioneer Asphalt committed to taking corrective action and training and was cooperative throughout the investigation. Therefore, the maximum penalty that could be assessed for a second violation within 12-month period is reduced to \$4,000.

Mitigating Factors to Support a Reduced Penalty

1. Pioneer Asphalt Paving Contractors, LLC has committed to take remedial actions to prevent re-occurrence and will complete a training session given by New York 811.
2. Pioneer Asphalt Paving Contractors, LLC was cooperative throughout the investigation and enforcement proceeding.