

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on October 13, 2016

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair  
Patricia L. Acampora  
Gregg C. Sayre  
Diane X. Burman

CASE 16-G-0526 - In the Matter of an Enforcement Proceeding  
Against Advanced Builders & Land Development  
Inc 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 October 24, 2016)

BY THE COMMISSION:

Respondent Information

Company Name: Advanced Builders & Land Development  
Inc  
Address: 400 Oser Avenue, Suite 2300  
Hauppauge, NY 11788

Alleged Violation Specifics

Date of Violation: November 24, 2015  
Location: 192 Shepherd Avenue  
Canarsie, NY  
Description of  
Excavation Work: Building construction  
Damaged Facility: 1-inch 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 May 23, 2016, 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 receipt was signed and returned, the regular mail was not.

Proposed Penalty: \$2,500

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 the facts as alleged, in which case the proposed penalty would be determined.

Determination

We find that Advanced Builders & Land Development Inc did commit a violation of 16 NYCRR §753-3.1(a) (1), which resulted in damage to a 1-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 \$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 Advanced Builders & Land Development Inc pursuant to §119-b(8) of the Public Service Law.

2. Advanced Builders & Land Development 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  
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