

CONSENT ORDER APPROVAL

CASE: 16-G-0519 - In the Matter of an Enforcement Proceeding Against County of Herkimer Highway Department 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.

Company Name: County of Herkimer Highway Department
(Herkimer)

Principal Contact: Mr. John Rathbun

Address: 313 3rd Avenue
Herkimer, NY 13350

Alleged Code
Violation: 753-3.3(a)

Description of
Violation: Commencing excavation prior to stated
commencement date

Date of Violation: February 4, 2016

Damaged Facility: None

Affected Facility: Plastic and steel natural gas services

Date of NOPV: March 14, 2016

Response: Informal conference

Proposed Penalty: \$1,000

Circumstances

Herkimer stated that it was using mechanized equipment to remove material along the pavement edge prior to its commencement date. Herkimer did not consider this prep work for excavation and has since modified its procedures to wait until all facilities have been marked prior to the commencement of

excavation. Herkimer committed to taking corrective action and training, and was cooperative throughout the investigation.

Mitigating Factors to Support a Reduced Penalty

1. County of Herkimer Highway Department has committed to take remedial actions to prevent re-occurrence and has completed a training session given by Dig Safely New York.
2. County of Herkimer Highway Department was cooperative throughout the investigation and enforcement proceeding.