

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on June 11, 2026

COMMISSIONERS PRESENT:

Rory M. Christian, Chair
James S. Alesi
David J. Valesky
John B. Maggiore
Uchenna S. Bright
Denise M. Sheehan
Radina R. Valova

CASE 26-G-0291 - In the Matter of an Enforcement Proceeding
Against George's Market & Nursery, LLC 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 ADOPTING TERMS OF CONSENT ORDER AGREEMENT

(Issued and Effective June 17, 2026)

BY THE COMMISSION:

INTRODUCTION

On October 1, 2025, George's Market & Nursery, LLC¹ was excavating to install a sign and caused damage to a ½-inch high-pressure plastic gas service.

On October 15, 2025, the Department of Public Service staff (staff), after an investigation of the facts, issued a Notice of Probable Violation (NOPV) to George's Market & Nursery, LLC alleging a violation of 16 NYCRR §753-3.1(a)(1), which provides that: "Before commencing or engaging in any

¹ George's Market & Nursery, LLC, 240 Wade Road Extension, Latham, New York 12110-1854.

nonemergency 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."

George's Market & Nursery, LLC responded to the NOPV and provided additional information. Pursuant to 16 NYCRR §753-6.7 and, in the interest of furthering gas safety, staff offered to reduce its request for a penalty of \$4,375 (as authorized by Article 36 of the General Business Law) to \$2,575 if employees of George's Market & Nursery, LLC received training with the one-call notification system, which they have completed.

DISCUSSION

In reviewing the Consent Order Agreement, the Commission considered the following mitigating factors in support of a reduced penalty. George's Market & Nursery, LLC has no history of adjudicated prior violations within the preceding twelve months, George's Market & Nursery, LLC has committed to take remedial training actions to prevent re-occurrence and has fully complied with all the terms of the Consent Order Agreement, and George's Market & Nursery, LLC was cooperative and forthcoming throughout the investigation and enforcement proceeding.

The Commission also considered aggravating circumstances, such as damage to an underground facility blowing gas and emergency response. To quantify the total amount of gas lost due to avoidable pipeline damage, starting in late 2023, staff began collecting and calculating gas emissions estimates from pipeline damage incidents. For this incident, staff estimated 6,418 cubic feet of gas lost to the atmosphere.

Taking these factors into account, along with the gravity of the incident and impact on public health, safety, and welfare, the Commission therefore approves the attached Consent Order Agreement.

The Commission orders:

1. The terms of the Consent Order Agreement with George's Market & Nursery, LLC, dated April 13, 2026, are adopted.
2. This proceeding is closed.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary

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FINANCE & BUDGET

2026 MAR 24 AM 9:26

Citation 25-0229-01: 2028 Western Avenue, Guilderland

Consent Order Agreement

1. This document is a Consent Order Agreement entered into between the New York State Department of Public Service (Department) and George's Market & Nursery, LLC (Respondent).
2. The Department of Public Service has recommended a penalty of \$2,625 pursuant to §119-b(8) of the Public Service Law and Article 36, §765(1) of the General Business Law, in full satisfaction of the Notice of Probable Violation dated October 15, 2025.
3. The Department and the Respondent agree to reduce the penalty amount by \$50 per employee who completes the Certified Excavator Program provided by UDig NY. Respondent commits to sending 1 employees (minimum of 1) to the Certified Excavator Program for a reduction of \$ 50 (minimum of \$50; maximum of \$1,000) making the total penalty amount \$ 2,575. The Respondent will remit this amount in full satisfaction of the Notice of Probable Violation dated October 15, 2025.
4. The Department and Respondent agree to resolve this matter without determination as to whether there has been a violation of the above statutes or the regulations promulgated there under. The Department and Respondent also agree that signing this Consent Order Agreement does not constitute an admission that Respondent committed a violation of 16 NYCRR Part 753.
5. Respondent hereby agrees, upon signing this Consent Order Agreement, to attach payment of the penalty by certified check or money order payable to the "Department of Public Service". The signed Consent Order Agreement and check shall be addressed to:

Laura Ferraro
Director of Finance and Budget
Department of Public Service
Three Empire State Plaza, 16th Floor
Albany, N.Y. 12223-1350
6. Respondent agrees to contact UDig NY at (315) 437-7394 or (800) 962-7962 to schedule the Certified Excavator Program for all of its employees involved in excavation work. The program will be completed on or before April 20, 2026. To verify compliance with this clause, Respondent will email a copy of Certified Excavator Program certificates to dps.sm.753citations@dps.ny.gov by April 27, 2026.

7. To the extent that members of Respondent's workforce to be trained in the protection of underground facilities are non-English speaking, the Respondent agrees to provide an interpreter for these employees.

8. If the terms of this Consent Order Agreement are not complied with by April 27, 2026 this Consent Order Agreement shall be deemed invalid and will not be sent to the Commission for approval. Instead the Department will recommend to the Commission the full penalty of \$4,375 be assessed pursuant to §119-b(8) of the Public Service Law and Article 36, §765(1) of the General Business Law.

9. Respondent agrees that any subsequent violation of 16 NYCRR Part 753 which occurs within twelve (12) months of October 1, 2025, shall be treated as a succeeding violation for purpose of General Business Law §765(1)(a).

10. Respondent hereby expressly waives any and all right of appeal or judicial review that might otherwise attach to a Final Order of the Commission.


Signature

George A. Vogt
Name

3/20/2026
Date

/s/ Michael Pasinella
Signature

Michael Pasinella
Name

4/13/2026
Date