

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 24-G-0701 - In the Matter of an Enforcement Proceeding
Against DeGennaro Construction, LLC for Alleged
Violations of 16 NYCRR Part 753 - Protection of
Underground Facilities, in the Service
Territory of Consolidated Edison Company of New
York, Inc.

ORDER DENYING PETITION FOR REHEARING

(Issued and Effective June 17, 2026)

BY THE COMMISSION:

INTRODUCTION

On April 8, 2024, while excavating to install a sewer
line and remove trees at 221 West Street, Harrison, New York,
DeGennaro Construction, LLC¹ (Respondent) damaged a ½-inch high-
pressure plastic gas service.

Department of Public Service staff (staff)
investigated the incident and found evidence that Respondent, on

¹ DeGennaro Construction, LLC, 1280 Saw Mill River Road,
Yonkers, New York 10710.

April 8, 2024, did in fact excavate without notification to the one-call system.

As a result, on August 5, 2024, staff issued a Notice of Probable Violation (NOPV) to Respondent via United States Postal Service First-Class Mail. The NOPV stated that failure to respond would be deemed acceptance of the facts as alleged, in which case a penalty would be determined. The First-Class Mail envelope containing the NOPV was not returned. The Respondent requested and received a 30-day extension to respond to the NOPV. However, Respondent failed to provide a response to the NOPV.

On January 31, 2025, the Commission issued an Order Determining Penalty and Directing Payment (January 31, 2025 Order) for \$2,500 against DeGennaro Construction, LLC.

On February 25, 2025, DeGennaro Construction, LLC filed a Petition for Rehearing (Petition). The Petition stated that there was a family emergency, that its principal was not in the office or in the mental state to be working, claimed that it did not install a sewer line or remove trees, and that it was working with the operator for several months while trying to have the gas facilities discontinued.

The operator provided photographs which depicted no gas markings at the site, an excavator on site, the damaged gas service with a long gouge exposing the internal cavity of the gas service, and a flat spot on the gas service that appears to have been pulled by mechanized equipment. The operator's damage report stated that the Respondent was excavating for sewer access and was removing a tree when gas service was damaged.

Pursuant to §753-3.1(a)(1), the entity performing excavation work is responsible for providing notice of intent to excavate to the one-call notification system, regardless of whether at the direction of a general contractor. Staff

confirmed that Respondent failed to provide notice of intent to excavate to the one-call notification system.

On July 15, 2025, staff issued a reduced penalty offer provided Respondent complete the certified excavator training program with UDig NY.

On October 2, 2025, staff contacted Respondent who stated that it did not receive the reduced penalty offer due to issues with mailings being delivered at this particular address. Subsequently, staff emailed a copy of the reduced penalty offer to the Respondent.

On October 7, 2025, Respondent contacted staff and stated that its equipment was stored at this location and that it was not excavating at the time of this damage.

On October 31, 2025, DeGennaro Construction, LLC filed a second Petition for Rehearing (Second Petition). The Second Petition stated that there is undue blame being placed on DeGennaro Construction, LLC, that it did not damage the gas line, that to this day sewer work has yet to be completed, that it contacted the operator to address an issue with the gas service, that the operator cut and capped the gas service due to non-use, that there were multiple communications with the operator from December 2023 through April 2024, that heavy delivery trucks may have caused the gas line to bend, that it did not notice or smell gas in the area of the damage, that it was amenable to completing a training session, and that it did not believe a penalty was warranted given the circumstances. Respondent also provided the communications previously discussed.

Staff reconfirmed that the photographs, as provided by the operator, support that mechanized equipment caused the damage and that mechanized equipment was located on the property at the time of operator repairs. Therefore, the Respondent

failed to provide notice of intent to excavate to the one-call notification system.

On November 25, 2025, staff re-issued a reduced penalty offer provided Respondent complete the certified excavator training program with UDig NY.

On March 12, 2026, staff spoke with the Respondent to inquire about its response to the reduced penalty offer. Staff then emailed a copy of the offer to the Respondent. However, Respondent failed to provide a response to the reduced penalty and training offer.

DETERMINATION

DeGennaro Construction, LLC identified no error of law or fact, nor any new circumstances, that would warrant a different determination. Accordingly, the Commission denies the Second Petition and determines a penalty of \$2,500 against DeGennaro Construction, LLC for a violation of 16 NYCRR §753-3.1(a).

The Commission orders:

1. The Second Petition for Rehearing submitted by DeGennaro Construction, LLC is denied.
2. A penalty of \$2,500 is determined against DeGennaro Construction, LLC pursuant to Public Service Law §119-b(8).
3. DeGennaro Construction, LLC 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 State Finance Law §92-S and shall be deposited into the environmental defense fund. The 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

4. If the check is not received within 30 days after issuance of this Order, Department of Public Service 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.

5. The proceeding is continued, pending compliance with Ordering Clause 3, following which it should be closed.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary