

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-0083 - In the Matter of an Enforcement Proceeding  
Against Mission Hills Construction LLC for  
Alleged Violations of 16 NYCRR Part 753 -  
Protection of Underground Facilities, in the  
Service Territory of National Fuel Gas  
Distribution Corporation.

ORDER GRANTING PETITION FOR REHEARING  
AND ADOPTING TERMS OF CONSENT ORDER AGREEMENT

(Issued and Effective June 17, 2026)

BY THE COMMISSION:

INTRODUCTION

On June 18, 2025, while replacing a driveway at 3981  
California Road, Orchard Park, New York, Mission Hills  
Construction LLC<sup>1</sup> (Respondent) placed at risk a high-pressure  
steel gas transmission main.

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

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<sup>1</sup> Mission Hills Construction LLC, 4534 Clinton Street, Building  
4, Suite 1, West Seneca, New York 14224.

June 18, 2025, did in fact excavate without notification to the one-call system.

As a result, on July 15, 2025, 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. A response to the NOPV was received.

On October 20, 2025, staff offered to resolve this matter with a reduced penalty provided the Respondent completed training with UDig NY. However, Respondent failed to provide a response to the Consent Offer.

On March 26, 2026, the Commission issued an Order Determining Penalty and Directing Payment (March 26, 2026 Order) for \$3,500 against Mission Hills Construction LLC.

On April 2, 2026, Mission Hills Construction LLC contacted staff to discuss this matter. Staff is construing this conversation as a Petition for Rehearing. The Respondent stated that it completed training with UDig NY, thought that once the trainings were completed this matter was resolved, and was surprised when it received the March 26, 2026 Order.

National Fuel Gas Distribution Corporation (NFG) provided photographs and a damage report to support that the Respondent was performing non-emergency excavation work without having provided notice of intent to excavate to the one-call notification system. NFG stated that it instructed the Respondent to provide a ticket and that NFG must be on site during the excavation. The Respondent provided an emergency one-call notification for its continued work on the property. NFG, on June 29, 2025, witnessed the Respondent excavating directly over the 20-inch high-pressure transmission gas

pipeline without having arranged for NFG personnel to be on site as was communicated with them the day prior.

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

On April 14, 2026, Mission Hills Construction LLC remitted \$2,150 and provided proof that five of its employees completed the certified excavator training program with UDig NY. Thereby, Mission Hills Construction LLC satisfied the terms of the Consent Order Agreement.

#### DETERMINATION

Mission Hills Construction LLC identified no error of law or fact, nor any new circumstances, that would warrant a different determination. However, because the Commission has a vested interest in promoting education and training, the Commission grants Mission Hills Construction LLC's Petition for Rehearing and adopts the terms of the Consent Order Agreement in full satisfaction of the March 26, 2026 Order.

#### The Commission orders:

1. The Petition for Rehearing submitted by Mission Hills Construction LLC is granted.
2. The March 26, 2026 Order Determining Penalty and Directing Payment is vacated.
3. The terms of the Consent Order Agreement with Mission Hills Construction LLC, dated April 30, 2026, are adopted.

4. This proceeding is closed.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS  
Secretary

**Consent Order Agreement**

1. This document is a Consent Order Agreement entered into between the New York State Department of Public Service (Department) and Mission Hills Construction LLC (Respondent).

2. The Department of Public Service has recommended a penalty of \$2,400 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 July 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 5 employees (minimum of 1) to the Certified Excavator Program for a reduction of \$250 (minimum of \$50; maximum of \$250) making the total penalty amount \$2,150. The Respondent will remit this amount in full satisfaction of the Notice of Probable Violation dated July 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, 16<sup>th</sup> 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 June 29, 2026. To verify compliance with this clause, Respondent will email a copy of Certified Excavator Program certificates to [dps.sm.753citations@dps.ny.gov](mailto:dps.sm.753citations@dps.ny.gov) by July 6, 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 July 6, 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 June 18, 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

David L. Manco  
Name

October 30, 2025  
Date

/s/ Michael Pasinella

Michael Pasinella

4/30/2026

Signature

Name

Date