

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-0299 - In the Matter of an Enforcement Proceeding  
Against Merestone LLC for Alleged Violations of  
16 NYCRR Part 753 - Protection of Underground  
Facilities, in the Service Territory of KeySpan  
Gas East Corporation d/b/a National Grid.

ORDER DETERMINING PENALTY AND DIRECTING PAYMENT

(Issued and Effective June 17, 2026)

BY THE COMMISSION:

BACKGROUND

On February 17, 2026, while excavating to install a driveway at 12 Glover Street, Sag Harbor, New York, Merestone LLC<sup>1</sup> (Respondent) damaged a 1-inch high-pressure plastic gas service.

New York has implemented a program to protect underground utility infrastructure, which includes regulations in 16 NYCRR Part 753. Specifically, 16 NYCRR §753-3.1(a)(1) states: "Before commencing or engaging in any nonemergency

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<sup>1</sup> Merestone LLC, 22 Canoe Place Road, Hampton Bays, New York 11946.

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."

Department of Public Service staff (staff) investigated the incident and found evidence that Respondent, on February 17, 2026, did in fact excavate without notification to the one-call system.

As a result, on March 11, 2026, 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, nor did Staff receive any answer from the Respondent. Respondent has not contested the factual allegations in the NOPV.

#### LEGAL AUTHORITY

Under General Business Law §765(1)(a), for incidents that occurred prior to May 9, 2025, entities that failed to comply with the requirements of 16 NYCRR Part 753 are subject to a civil penalty of up to \$2,500 for the first offense and an additional civil penalty of up to \$10,000 for each succeeding violation that occurred within a 12-month period. Under General Business Law §765(1)(a), for incidents that occurred on or after May 9, 2025, entities that failed to comply with the requirements of 16 NYCRR Part 753 are subject to a civil penalty of up to \$4,375 for the first offense and an additional civil penalty of up to \$17,500 for each succeeding violation that occurred within a 12-month period. Consistent with Public Service Law §119-b(8), in determining the civil penalty amount in this case, the Commission shall consider the nature,

circumstances, and gravity of the violation, history of prior violations, effect on public health, safety, or welfare, and other considerations as necessary.

DETERMINATION

The Commission finds that Merestone LLC committed a violation of 16 NYCRR §753-3.1(a)(1). In assessing a penalty, the Commission takes notice of the following considerations.

The one-call notification system serves a fundamental and indispensable role in the protection of underground facilities in the State. Absent a one-call ticket, the excavator lacks knowledge of the locations of buried utility infrastructure. Likewise, utilities would not be aware that an excavator may be endangering their facilities. Engaging in mechanized digging without knowing what lies beneath the surface can lead to disastrous consequences, endanger people, property, and the environment, and disrupt utility service. Damage to a gas line can cause an explosion or fire. By failing to comply with the requirements of 16 NYCRR §753-3.1(a)(1), Merestone LLC needlessly and carelessly created a significant risk to public safety. Thus, the gravity of this violation is substantial. The penalty assessed seeks to sanction Merestone LLC and deter it and others from similar conduct in the future.

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 29,880 cubic feet of gas lost to the atmosphere. In addition, Respondent has no history of adjudicated prior violations that occurred within the preceding 12-month period. Therefore, the statutory maximum civil penalty allowable for this offense is \$4,375. We note that Respondent did not dispute or contest the

factual allegations in the NOPV. Thus, the factual allegations are uncontested, and we deem them admitted and established. Here, Respondent engaged in activity that resulted in damage to a gas pipeline that caused the release of gas, thus creating a threat to public safety, health, and welfare. In consideration of the nature, circumstances, and gravity of the violation, the Commission determines a penalty of \$4,375 is appropriate for this violation.

In reaching this determination, the Commission relied on evidence collected which includes a one-call notification system ticket search by staff, staff's investigative report, an enforcement request submitted by the operator to staff, a damage investigation report provided by the operator to staff, and photographs in the record.

The Commission also strongly encourages Respondent to contact New York 811, Inc. (631-778-8111) 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 \$4,375 is determined against Merestone LLC pursuant to Public Service Law §119-b(8).
2. Merestone LLC is directed to remit, by certified check payable to the "Department of Public Service," the sum of \$4,375 in payment of the penalty determined. The \$4,375 sum is subject to State Finance Law §92-S and shall be deposited into the environmental protection fund. The 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, NY 12223-1350

3. 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.

4. The proceeding is continued, pending compliance with Ordering Clause 2, following which it should be closed.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS  
Secretary