

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 25-G-0694 - In the Matter of an Enforcement Proceeding
Against Nothnagle Drilling, Inc. for Alleged
Violations of 16 NYCRR Part 753 - Protection of
Underground Facilities, in the Service
Territory of Valley Energy, Inc.

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

(Issued and Effective June 17, 2026)

BY THE COMMISSION:

INTRODUCTION

On May 6, 2025, while drilling for soil borings on the
north side of County Road 60, near the intersection with North
Street, Chemung, New York, Nothnagle Drilling, Inc.¹ (Respondent)
damaged a 4-inch high-pressure plastic gas distribution main.

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

¹ Nothnagle Drilling, Inc., 1821 Scottsville Mumford Road,
Scottsville, New York 14546.

May 6, 2025, did in fact drill without notification to the one-call system.

As a result, on August 4, 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, nor did Staff receive any answer from the Respondent. Respondent did not contest the factual allegations in the NOPV.

On December 29, 2025, the Commission issued an Order Determining Penalty and Directing Payment (December 29, 2025 Order) for \$4,375 against Nothnagle Drilling, Inc.

On January 20, 2026, Nothnagle Drilling, Inc. filed a Petition for Rehearing (Petition). The Petition stated that the maximum liability of \$4,375 was incorrectly issued and should have been \$2,500 based on the violation date, that Respondent takes this matter seriously and is thankful that no one was injured, the Respondent was unaware that the boring locations had been relocated for this project, that the ground penetrating radar did not identify the gas main, and admitted that it failed to provide notice of intent to excavate to the one-call notification system.

This violation occurred on May 6, 2025, which occurred prior to May 9, 2025, when the maximum liabilities were increased in General Business Law §765(1)(a) for entities that fail to comply with the requirements of 16 NYCRR Part 753. Therefore, the maximum liability for this violation should be amended from \$4,375 to \$2,500.

Pursuant to §753-3.1(a)(1), before commencing or engaging in any 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. Staff confirmed that one-call ticket number 04285-000-575 was provided for soil borings and that Nothnagle Drilling, Inc. dug beyond the scope for this ticket. Nothnagle Drilling, Inc. admitted to the violation and that it failed to provide an accurate location of the planned excavation to the one-call notification system, in violation of §753-3.1(a)(1).

On April 6, 2026, staff issued a reduced penalty offer provided Nothnagle Drilling, Inc. complete the certified excavator training program with UDig NY.

On April 8 and 9, 2026, Nothnagle Drilling, Inc. remitted \$1,350 and provided proof that three of its employees completed the certified excavator training program with UDig NY. Thereby, Nothnagle Drilling, Inc. satisfied the terms of the Consent Order Agreement.

DETERMINATION

Nothnagle Drilling, Inc. identified an error of fact regarding the maximum liability associated with this violation. Therefore, the Commission amends the maximum liability associated with this violation from \$4,375 to \$2,500. Regarding the violation of §753-3.1(a)(1), Nothnagle Drilling, Inc. identified no error of law, 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 Nothnagle Drilling, Inc.'s Petition for Rehearing and adopts the terms of the Consent Order Agreement in full satisfaction of the December 29, 2025 Order.

The Commission orders:

1. The Petition for Rehearing dated January 2, 2026, submitted by Nothnagle Drilling, Inc. is granted.
2. The December 29, 2025 Order Determining Penalty and Directing Payment is vacated.
3. The terms of the Consent Order Agreement with Nothnagle Drilling, Inc., dated April 14, 2026, are adopted.
4. This proceeding is closed.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary

Citation 25-0155-01: North side of County Road 60, near intersection with North Street, Chemung

Consent Order Agreement

1. This document is a Consent Order Agreement entered into between the New York State Department of Public Service (Department) and Nothnagle Drilling, Inc. (Respondent).
2. The Department of Public Service has recommended a penalty of \$1,500 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 August 4, 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 3 employees (minimum of 1) to the Certified Excavator Program for a reduction of \$150 (minimum of \$50; maximum of \$1,000) making the total penalty amount \$1,350. The Respondent will remit this amount in full satisfaction of the Notice of Probable Violation dated August 4, 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 June 5, 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 June 12, 2026.

