

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-0289 - In the Matter of an Enforcement Proceeding
Against Poolux Builders Inc. for Alleged
Violations of 16 NYCRR Part 753 - Protection of
Underground Facilities, in the Service
Territory of Orange and Rockland Utilities,
Inc.

ORDER ADOPTING TERMS OF CONSENT ORDER AGREEMENT

(Issued and Effective June 17, 2026)

BY THE COMMISSION:

INTRODUCTION

On August 4, 2025, Poolux Builders Inc.¹ was excavating
to install a pool and caused damage to a ½-inch high-pressure
plastic gas service.

On August 11, 2025, the Department of Public Service
staff (staff), after an investigation of the facts, issued
Notice of Probable Violations (NOPVs) to Poolux Builders Inc.
alleging violations of 16 NYCRR §753-3.1(a)(1), which provides
that: "Before commencing or engaging in any nonemergency

¹ Poolux Builders Inc., 21 Sky Meadow Road, Suffern, New York
10901.

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"; and 16 NYCRR §753-3.10(d), which provides that: "No backfilling shall be done by the excavator in the vicinity of the contact or damage until the operator conducts an inspection and makes any necessary repairs; and, the excavator shall undertake no repairs unless and until authorized by the operator."

Poolux Builders Inc. responded to the NOPVs 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 penalties of \$4,375 and \$17,500 (as authorized by Article 36 of the General Business Law) to \$825 and \$3,450, respectfully, if employees of Poolux Builders Inc. received training with the one-call notification system, which they have completed.

DISCUSSION

In reviewing the Consent Order Agreements, the Commission considered the following mitigating factors in support of reduced penalties. Poolux Builders Inc. has no history of adjudicated prior violations within the preceding twelve months, Poolux Builders Inc. has committed to take remedial training actions to prevent re-occurrence and has fully complied with all the terms of the Consent Order Agreements, and Poolux Builders Inc. was cooperative and forthcoming throughout the investigation and enforcement proceeding.

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 12,548 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 Agreements.

The Commission orders:

1. The terms of the Consent Order Agreements with Poolux Builders Inc., dated April 29, 2026, are adopted.
2. 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 Poolux Builders Inc. (Respondent).
2. The Department of Public Service has recommended a penalty of \$875 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 11, 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 \$850) making the total penalty amount \$ 325. The Respondent will remit this amount in full satisfaction of the Notice of Probable Violation dated August 11, 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 1, 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 8, 2026.

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DEPT. OF PUBLIC SERVICE
FINANCE & BUDGET
2026 APR 13 PM 2:05

Consent Order Agreement

1. This document is a Consent Order Agreement entered into between the New York State Department of Public Service (Department) and Poolux Builders Inc. (Respondent).

2. The Department of Public Service has recommended a penalty of \$3,500 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 11, 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 \$3,450. The Respondent will remit this amount in full satisfaction of the Notice of Probable Violation dated August 11, 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:

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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 8, 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 August 4, 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.

<hr/> Signature	<u>Michael Roseberg</u> Name	<u>4/1/26</u> Date
<u>/s/ Michael Pasinella</u> Signature	<u>Michael Pasinella</u> Name	<u>4/29/2026</u> Date