

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on February 13, 2025

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-0011 - In the Matter of an Enforcement Proceeding
Against Northway Cleaning Services LLC for
Alleged Violations of 16 NYCRR Part 753 -
Protection of Underground Facilities, in the
Service Territory of Niagara Mohawk Power
Corporation d/b/a National Grid.

ORDER ADOPTING TERMS OF CONSENT ORDER AGREEMENT

(Issued and Effective February 24, 2025)

BY THE COMMISSION:

INTRODUCTION

On July 12, 2024, Northway Cleaning Services LLC (or Respondent)¹ was excavating for the removal of trees which affected a gas service.

On August 27, 2024, the Department of Public Service Staff (Staff), after an investigation of the facts, issued a Notice of Probable Violation (NOPV) to Northway Cleaning Services LLC alleging a violation of 16 NYCRR §§753-3.1(a)(1), which provides that: "Before commencing or engaging in any non-

¹ Northway Cleaning Services LLC, 17 Timber Terrace, Ballston Spa, New York 12020.

emergency 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."

Northway Cleaning Services LLC responded to the NOPV 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 a penalty of \$2,500 (as authorized by Article 36 of the General Business Law) to \$950 if employees of Northway Cleaning Services LLC received training with the one-call notification system, which they have completed.

DISCUSSION

In reviewing the Consent Order Agreement, the Commission considered the following mitigating factors in support of a reduced penalty. Northway Cleaning Services LLC has no history of prior violations within the preceding twelve months, Northway Cleaning Services LLC has committed to take remedial training actions to prevent re-occurrence and has fully complied with all the terms of the Consent Order Agreement, and Northway Cleaning Services LLC was cooperative and forthcoming throughout the investigation and enforcement proceeding.

In order to attempt 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, there was no 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 Agreement.

The Commission orders:

1. The terms of the Consent Order Agreement with Northway Cleaning Services LLC, dated December 12, 2024, 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 Northway Cleaning Services LLC (Respondent).

2. The Department of Public Service has recommended a penalty of \$1,000 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 27, 2024.

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 \$ 950. The Respondent will remit this amount in full satisfaction of the Notice of Probable Violation dated August 27, 2024.

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 January 17, 2025. To verify compliance with this clause, Respondent will email a copy of Certified Excavator Program certificates to dps.sm.753citations@dps.ny.gov by January 24, 2025.

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 January 24, 2025 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 \$2,500 be assessed pursuant to §119-b(8) of the Public Service Law and Article 36, §765(1) of the General Business Law.

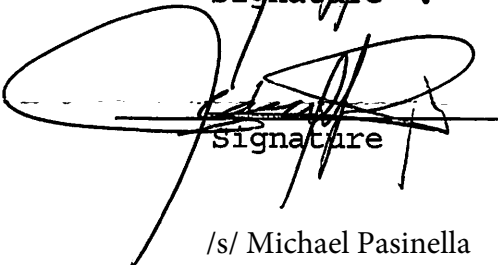
9. Respondent agrees that any subsequent violation of 16 NYCRR Part 753 which occurs within twelve (12) months of July 12, 2024, shall be treated as a succeeding violation for purpose of General Business Law §765(1)(a).

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

Manuel Lopez
Name

12/12/24
Date


Signature

/s/ Michael Pasinella

Manuel Lopez
Name

12/12/24
Date

Michael Pasinella

1/7/2025