

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on October 15, 2015

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Gregg C. Sayre
Diane X. Burman

CASE 15-G-0547 - In the Matter of an Enforcement Proceeding
Against Able Plumbing Company of Richmond,
Inc. for Alleged Violations of 16 NYCRR Part
753 - Protection of Underground Facilities, in
the Service Territory of The Brooklyn Union
Gas Company d/b/a National Grid NY.

ORDER DETERMINING PENALTY AND DIRECTING PAYMENT

(Issued and Effective October 26, 2015)

BY THE COMMISSION:

Respondent Information

Company Name: Able Plumbing Company of Richmond, Inc.
Address: 40 LaSalle Street
Staten Island, NY 10303

Alleged Violation Specifics

Date of Violation: October 10, 2014
Location: 97 Santa Monica Lane
Staten Island, NY
Description of
Excavation Work: Sewer and cesspool
Damaged Facilities: 6-inch high-pressure natural gas main
Alleged Code
Violation(s): 753-3.1(a)(1)

Description of
Violation:

Failure to provide notice of intent to
excavate to the one-call notification
system

Notice of Probable Violation (NOPV) Information

Date of NOPV: July 10, 2015

Proposed Penalty: \$10,000

Response: Did not respond

Summary of Information

Provided by Respondent: Not Applicable

Analysis of Evidence

16 NYCRR §753-3.1(a)(1) states:

Before commencing or engaging in any non-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.

On February 12, 2015, the Commission issued an Order Determining Penalty and Directing Payment for four separate violations which occurred on August 13, 2014 located at 162 Jerome Avenue, September 2, 2014 located at 197 Stafford Avenue, September 3, 2014 located at 8/220/222 Dubois Avenue, and September 3, 2014 located at 114 Romer Road.

No response to the NOPV was received. The NOPV stated that failure to respond would be deemed acceptance of facts as alleged, in which case the proposed penalty would be determined.

Determination

We find that Able Plumbing Company of Richmond, Inc. did commit a violation of 16 NYCRR §753-3.1(a)(1), which resulted in damage to a 6-inch high-pressure natural gas main.

Under General Business Law §765.1, failure to comply with the requirements of 16 NYCRR Part 753 are subject to a civil penalty of \$2,500 for the first offense and an additional \$10,000 for each succeeding violation that occurs within a twelve month period. In consideration of the nature, circumstances and gravity of the violation, we determine a penalty of \$10,000 is appropriate for this violation.

We also strongly encourage the Respondent to contact New York 811 (516-639-8606) 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 \$10,000 is determined against Able Plumbing Company of Richmond, Inc. pursuant to §119-b(8) of the Public Service Law.

2. Able Plumbing Company of Richmond, Inc. is directed to remit, by certified check payable to the "Department of Public Service" the sum of \$10,000 in payment of the penalty determined. The \$10,000 sum is subject to Section 18 of the State Finance Law and shall be deposited into the underground facilities safety training account. The check shall be addressed to:

Ms. Carol Gnacik
Director of Finance and Budget
Department of Public Service
Three Empire State Plaza
16th Floor
Albany, N.Y. 12223-1350

3. If the check is not received within 30 days after issuance of this Order, 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)

KATHLEEN H. BURGESS
Secretary