

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 25, 2024

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. URS-2023-00291

ART PICAGLI,
Defendant

ORDER OF SETTLEMENT

Pursuant to § 56-265.30 of the Code of Virginia ("Code"), the State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, Code § 56-265.14 *et seq.* The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

- (1) On or about January 15, 2023, Art Picagli ("Excavator"), damaged a three-quarter-inch plastic gas service line operated by Virginia Natural Gas, Inc., located at or near 29 River Road, Williamsburg, Virginia, while excavating.
- (2) On the occasion set out in paragraph (1) above, the Excavator failed to request the re-marking of lines three working days before the end of the fifteen-working-day period, or at any time when line-location markings on the ground became illegible, in violation of Code § 56-265.17 D.
- (3) On the occasion set out in paragraph (1) above, the Excavator failed to take all reasonable steps necessary to properly protect, support and backfill the underground utility line, in violation of Code § 56-265.24 A.
- (4) On the occasion set out in paragraph (1) above, the Excavator failed to immediately notify the operator of the damage, in violation of Code § 56-265.24 D.

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(5) On the occasion set out in paragraph (1) above, the Excavator failed to take immediate steps reasonably calculated to safeguard life, health and property, in violation of Code § 56-265.24 E.

(6) On the occasion set out in paragraph (1) above, the Excavator utilized mechanized equipment within two feet of the extremities of all exposed utility lines, in violation of 20 VAC 5-309-140 (3) of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act, 20 VAC 5-309-10 *et seq.* ("Damage Prevention Rules").

(7) On the occasion set out in paragraph (1) above, the Excavator failed to promptly report the damage to the appropriate authorities by calling 911 after the escape of flammable, toxic, or hazardous gas due to excavation, in violation of Rule 20 VAC 5-309-200.

As evidenced in the attached Admission and Consent document, the Excavator neither admits nor denies these allegations but admits to the Commission's jurisdiction and authority to enter this Order.

As a proposal to settle all matters before the Commission arising from the Division's allegations herein, the Excavator has offered, and agreed to comply with, the following terms and undertakings:

(1) That the Excavator will pay a civil penalty to the Commonwealth of Virginia in the amount of \$600 to be paid contemporaneously with the entry of this Order.

(2) The Excavator will undertake a training session on the subject of underground utility damage prevention conducted by the Division and submit documentation evidencing the training session to the Commission contemporaneously with the entry of this Order.

The Excavator has now complied fully with the terms and undertakings of the settlement as outlined herein. Documentation evidencing the training session on the subject of underground

utility damage prevention has been submitted on a timely basis in accordance with the undertakings set forth above.

NOW THE COMMISSION, being advised by the Division and finding sufficient basis herein for acceptance of the Excavator's offer of settlement and evidence of training, accepts this offer of settlement and evidence of training.

Accordingly, IT IS ORDERED THAT:

- (1) The captioned case is docketed and assigned Case No. URS-2023-00291.
- (2) Pursuant to the authority granted to the Commission by Code § 12.1-15, the offer of settlement made by the Excavator is accepted.
- (3) The sum of Six Hundred Dollars (\$600) tendered contemporaneously with the entry of this Order is accepted.
- (4) This case is dismissed.

A COPY hereof shall be sent electronically by the Clerk of the Commission to: Art Picagli, 225 Pine Grove Road, Newport News, Virginia 23601, picagli@yahoo.com; and a copy shall be delivered to the Commission's Office of General Counsel and Division of Utility and Railroad Safety.

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ADMISSION AND CONSENT

The Excavator, Art Picagli, admits the jurisdiction of the State Corporation Commission ("Commission") as to the party and subject matter hereof and, without admitting or denying the allegations made herein by the Division of Utility and Railroad Safety, hereby consents to the form, substance, and entry of the foregoing Order of Settlement. The Excavator acknowledges that the Order of Settlement entered herein is a public record and is subject to review by the public.

The Excavator further states that no offer, tender, threat, or promise of any kind has been made by the Commission or by any member, officer, agent, or representative thereof in consideration of this Admission and Consent.

Art Picagli

By: 

Email: Picagli.e@yahoo.com

Date: 2/22/2024