

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7181

Petition of Department of Public Service to impose)
penalties upon Don Weston Excavating, Inc. re:)
probable Dig Safe violation involving a Vermont Gas)
Systems, Inc. utility line located in Burlington, Vermont,)
on 8/24/05 –)

Order entered: 8/22/2006

REPORT AND ORDER

I. REPORT

This docket concerns an alleged violation of 30 V.S.A. § 7006b, a provision included in Title 30, Chapter 86 of the Vermont Statutes ("Underground Utility Damage Prevention System").

Pursuant to 30 V.S.A. § 8, and based on the record and evidence before me, I present the following report and recommendation to the Board.

On February 10, 2006, the Vermont Department of Public Service ("Department") filed with the Public Service Board ("Board") a Notice of Probable Violation of Underground Utility Damage Prevention System Pursuant to Public Service Board Rule 3.807 ("Notice").¹ The Notice alleged that, on August 24, 2005, Don Weston Excavating, Inc. ("Weston") violated the provisions of 30 V.S.A. § 7006b when it failed to take reasonable precautions and avoid damage to Vermont Gas Systems ("VGS") underground facilities. The Notice further sought the imposition of a fine in the amount of Four Hundred Dollars (\$400.00) as a remedial action.

On, March 2, 2006, Weston filed a response to the Notice ("Response"), in which it disagreed with the remedial action sought by the Department in the Notice, and requested that the Board hold a hearing in connection therewith.

1. Public Service Board DSN #260.

On June 15, 2006, Weston withdrew its objection to the remedial action sought by the Department in the Notice, and submitted to the Board payment in full of the \$400.00 civil penalty recommended by the Department in the Notice.

Because Weston has withdrawn its objection to the remedial action sought by the Department, and has submitted payment of the \$400.00 civil penalty recommended by the Department in the Notice, I conclude that the remedial action proposed in the Notice is appropriate, and should be imposed.² Accordingly, I recommend that the Board accept the \$400.00 payment by Weston in disposition of the Notice, and close this docket.

Consistent with the provision of 3 V.S.A. § 811, this Proposal for Decision has not been served on all parties to this proceeding because it is not adverse to any party.

Dated at Montpelier, Vermont, this 15th day of August, 2006.

s/Judith M. Kasper

Judith M. Kasper, Esq.
Hearing Officer

2. *See*, Public Service Board Rule 3.807(G).

II. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The recommendation of the Hearing Officer is hereby accepted.

2. The payment made by Don Weston Excavating, Inc. ("Weston") in the amount of Four Hundred Dollars (\$400.00) is accepted as payment in full of the civil penalty recommended in the Notice of Probable Violation of Underground Utility Damage Prevention System Pursuant to Public Service Board Rule 3.807 ("Notice") filed by the Vermont Department of Public Service ("Department") against Weston on February 10, 2006.³

3. This docket shall be closed.

Dated at Montpelier, Vermont, this 22nd day of August, 2006.

s/James Volz)

) PUBLIC SERVICE

s/David C. Coen)

) BOARD

s/John D. Burke)

) OF VERMONT

OFFICE OF THE CLERK

FILED: August 22, 2006

ATTEST: s/Susan M. Hudson

Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.

3. Public Service Board DSN #260.