

DM 00-088

STEVEN A. DESMARAIS CONSTRUCTION, INC.

**Hearing on Violation of Underground Utility
Damage Prevention Program**

**Order to Show Cause Why Steven A. Desmarais Construction, Inc.
Should Not Be Liable for Penalties Assessed, Expenses
Incurred, and Whether Additional Penalties Should Be Imposed**

O R D E R N O. 23,484

May 16, 2000

On August 4, 1999, Public Service of New Hampshire (PSNH), in accordance with the Underground Utility Damage Prevention Program, N.H. Admin. Rules Puc 803.02(e), reported damage to underground facilities on Whittier Place in Merrimack, New Hampshire. The report alleged that on August 3, 1999, Steven A. Desmarais Construction, Inc. (Desmarais Construction) damaged a 3" schedule 40 pipe with 35 KV URD primary cable energized at 7200 volts, and that Desmarais Construction failed to follow the notification procedures prescribed by RSA 374:51,II.

On November 18, 1999, the Safety Division, pursuant to Puc 805.01, issued Notice of Probable Violation (NOPV) No. 99090, by certified mail, to Desmarais Construction. Desmarais Construction received the NOPV on November 22, 1999. Pursuant to Puc 805.02, Desmarais Construction had 30 days to respond to the NOPV. Desmarais Construction responded with a

letter dated December 11, 1999, stating that it should not be fined as it did not violate the spirit of the regulation, although it agreed that damage occurred as a result of its action.

In accordance with Puc 805.03 (a), the Division issued Notice of Violation (NOV) No. 99090V to Desmarais Construction on December 16, 1999. Desmarais Construction received the NOV on December 17, 1999. Pursuant to Puc 805.04 (a), Desmarais Construction had 10 days to respond and they did so with a letter dated January 3, 2000, requesting a hearing.

Based upon the foregoing, it is hereby

ORDERED, that Steven A. Desmarais Construction, Inc., appear before the New Hampshire Public Utilities Commission at its offices at 8 Old Suncook Road, Concord, New Hampshire on June 1, 2000 at 10:00 A.M. to show cause why Desmarais Construction should not be held liable for the penalties pursuant to RSA 374:55.

By order of the Public Utilities Commission of New
Hampshire this sixteenth day of May, 2000.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary