

SUPREME COURT: COUNTY OF ERIE  
National Fuel Gas Distribution Corporation  
6363 Main Street  
Williamsville, New York 14221

ERIE COUNTY WATER AUTH Claimant,  
23 SEP '22 PM2:17

NOTICE OF CLAIM

-vs-

Index No.

Erie County Water Authority  
295 Main Street, Room 350  
Buffalo, New York 14203

Defendant.

TO THE ABOVE NAMED DEFENDANT:

SIR:

PLEASE TAKE NOTICE that the Claimant herein hereby makes claim and demand against the Erie County Water Authority as follows:

1. The name and post-office address of the Claimant is: National Fuel Gas Distribution Corporation, 6363 Main Street, Williamsville, New York 14221. The name and post office address of Claimant's attorney is: Kenneth M. Gossel, Esq., National Fuel Gas Distribution Corporation, 6363 Main Street, Williamsville, New York 14221.

2. The nature of the claim is an action for the recovery of property damage to Claimant's underground facilities, for gas loss, and for the cost of the repair of said underground facilities caused solely by the negligence of Defendant and Defendant's violation of the law of trespass, General Business Law, inter alia, Article 36, Sections 760 – 765; Public Service Law, inter alia, Section 119-b; 16 N.Y.C.R.R. Part 753; 29 C.F.R. Sections 1926.1, et. seq., while the Defendant was excavating in the Town of Orchard Park, County of Erie and State of New York.


3. The time when, the place where and the manner in which the incidents underlying the claim arose are as follows:

- (i) Damage to Claimant's underground facilities occurred on July 20, 2022, at approximately 11:40 a.m., at or near 480 Lakeview Ave., Town of Orchard Park, County of Erie and State of New York, when the Defendant was excavating, Defendant negligently and in violation of the law of trespass, General Business Law, inter alia, Article 36, Sections 760 – 765; Public Service Law, inter alia, Section 119-b; 16 N.Y.C.R.R. Part 753; 29 C.F.R. Sections 926.1, et. seq., caused damage to Claimant's natural gas line and the loss of gas.

4. The items of damage are property damage to Claimant's underground facilities, detailed above, and the cost of repairing said damage. That said claim and demand is hereby presented for adjustment and payment. PLEASE TAKE FURTHER NOTICE that by reason of the foregoing, and upon the default of the Erie County Water Authority, to pay Claimant the full amount of the damages suffered by reason of the foregoing, within the time limited for compliance with this demand by the said Erie County Water Authority, by the statutes in such cases made and provided, Claimant will institute an action against the Erie County Water Authority, to recover the full amount of Claimant's damages, with interest and costs.

DATED: Williamsville, New York  
September 21<sup>st</sup>, 2022

Respectfully yours,  
National Fuel Gas Distribution Corporation

By:   
Patrick Kelly Jr.  
Claims Supervisor II of the Risk Department of  
National Fuel Gas Distribution Corporation

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ERIE  
National Fuel Gas Distribution Corporation  
6363 Main Street  
Williamsville, New York 14221,

Claimant,

-vs-

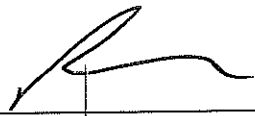
Index No.

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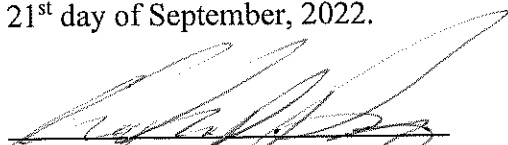
Defendant

STATE OF NEW YORK            )  
  ) ss.:  
COUNTY OF ERIE             )

Patrick Kelly Jr., being duly sworn, deposes and says that I am an employee in the Risk Management Department for National Fuel Gas Distribution Corporation; that I have read the forgoing Notice of Claim; that the same is true to my knowledge, except as to matters stated to be alleged upon information and belief, and as to those matters, I believe them to be true based upon information supplied to me; and the reason the verification is made by me because National Fuel Gas Distribution Corporation is a corporation.

  
\_\_\_\_\_  
Patrick Kelly Jr.

Sworn to before me this  
21<sup>st</sup> day of September, 2022.

  
\_\_\_\_\_  
Notary Public

CHRISTOPHER D. KINSLEY  
NOTARY PUBLIC, STATE OF NEW YORK  
QUALIFIED IN NIAGARA COUNTY  
MY COMMISSION EXPIRES  
NOVEMBER 27, 2022

Municipality  
Diared

2022-52014-01

NFQRF001  
Date Printed: 8/31/2022  
Time Printed: 8:03:36AM

National Fuel  
Closed Damage Report for Risk  
Risk Report Type: All Damages

RiskPro Run ID: 10180  
End Date: 08/20/2022  
Processed Date: 08/31/2022  
State: New York  
Project ID: 109117

Damage Status: Closed CSO ID: 10178803 Leak ID: Date & Time of Damage: 07/20/2022 11:40 am  
Item Location: 480 Lakeview Ave  
City: Orchard Park County: Erie (NY)

Additional Address Info:

Damage Type: Below Grade Facility Type: Distribution Service

Investigation Comments: ECWA DAMAGED 5/8" MP PLASTIC LONG SIDE SERVICE #461 LAKEVIEW AVE W/ SHOVEL WHILE MAKING WATER VALVE REPAIR 39' FFHL & 6' LLHL OF 480 LAKEVIEW AVE

Investigated By: 60281

Responsible Party Name: ERIE COUNTY WATER AUTHORITY

Damaged By: Contractor

Working For: ECWA

Address: 3030 UNION RD

City: CHEEKTAWAGA

State: NY

Zip: 14227

Phone: 716/685-8241

Equipment Operator Name: TAYLOR, JOHN

Vehicle License Plate Info:

Description of Facility: 5/8" MP PLASTIC

Facility Marked? Y

Gas Blowing? Y

One-Call Ticket ID: 07082-000-307

Marked Accurately? Y

Size: 00-5/8'

Interrupt Count: 1

Locate Date: 07/08/2022

Line Pressure (lbs: oz): 60:0

Material Damaged: Plastic

Photos Taken Of Damage: N

Time Blowing (mins): 55

Break Type: Complete Break - Service

Hole Size Width (in): 0.0

Length (in): 0.0

Repair Comments: ECWA DAMAGED 5/8" MP PLASTIC LONG SIDE SERVICE #461 LAKEVIEW AVE W/ SHOVEL WHILE MAKING WATER VALVE REPAIR 39' FFHL & 6' LLHL OF 480 LAKEVIEW AVE MADE ONE MAN LINE REPAIR W/ STAB FITTINGS

Completed By: 60281

Lawn Restoration Expense? N

Concrete & Blacktop Restoration Expense? N

Permit Fee Expense: N

Billable? Billable

Interruption Report Entered? Yes

Total Labor Costs (hrs): 1.0

Material Transfer (Total Cost): 27.49

Damage Cause: Excavation practices not sufficient / Excavator Error

Closed Comments: Steve did a one man line hit repair. Contractor hit long side service. Leak was called in for 480, but was actually at 471 Lakeview Ave.

Closed By: 21236

Date: 08/17/2022

District Manager Comments: