



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
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Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

RELIABILITY & SECURITY

IN THE MATTER OF ALLEGED VIOLATIONS OF THE)
UNDERGROUND FACILITY PROTECTION ACT,)
N.J.S.A. 48:2-73 ET SEQ.)

ORDER ACCEPTING
SETTLEMENTS

)
) Docket Nos. GS10120913K
) and GS12080745K

Parties of Record:

Jeffrey Wagenbach, Riker Danzig Scherer Hyland & Perretti LLP on behalf of Colonial Pipeline
Bruce Miller, Conetec Inc.

BY THE BOARD

The Board of Public Utilities ("Board") has jurisdiction to oversee and enforce the provisions of the Underground Facility Protection Act ("the UFPA") pursuant to the provisions set forth in N.J.S.A. 48:2-73, et seq. The primary purpose of the UFPA is to establish the One-Call Damage Prevention System for the protection of underground facilities that are used for the conveyance of water, forced sewage, telecommunications, cable television, electricity, oil, petroleum products, gas, optical signals, traffic control, or for the transportation of a hazardous liquid. In declaring its findings and the purpose of the UFPA, the Legislature stated, in pertinent part:

That damage to underground facilities caused by excavation and the discharge of explosives poses a significant risk to the public safety; that such damage to underground natural gas facilities poses a substantial risk to the public safety; and that the implementation of a comprehensive One-Call Damage Prevention System can substantially reduce the frequency of damage caused by these activities.

The Legislature therefore determines that it is in the public interest for the State to require all operators of underground facilities to participate in a One-Call Damage Prevention System and to require all excavators to notify the One-Call Damage Prevention System prior to excavation or demolition.

N.J.S.A. 48:2-74.

The UFPA defines "excavator" as "any person performing excavation or demolition," and "operator" as "a person owning or operating, or controlling the operation of, an underground facility..." N.J.S.A. 48:2-75. The One-Call Damage Prevention System ("the System") coordinates communication and responsive action between these two groups of persons. N.J.S.A. 48:2-80, -82.

The UFPA subjects violators of its provisions to civil penalties of not less than \$1,000.00 and not more than \$2,500.00 per violation per day, not to exceed \$25,000 for any related series of violations. N.J.S.A. 48:2-88(a). Violations relating to natural gas or hazardous liquid underground pipelines or distribution facilities shall subject the violator to civil penalties not to exceed \$100,000.00 per violation per day and not to exceed \$1,000,000.00 for any related series of violations. In addition, a violator may be assessed the cost of any Board investigation, inspection or monitoring survey which leads to the establishment of a violation and for the reasonable costs of preparing and litigating the matter. N.J.S.A. 48:2-86(b)(2).

Specifically, this Order relates to an incident on October 3, 2008 where an excavator, Conetec, Inc. ("Conetec"), working as a subcontractor in connection with a roadway expansion project undertaken by the New Jersey Turnpike Authority ("NJTA"), damaged a pipeline owned by Colonial Pipeline Company ("Colonial") at a location in Hamilton Township, Mercer County, New Jersey (the "October 2008 Incident"). The NJTA undertook the project to make improvements to roadway infrastructure, consisting of approximately 35 miles of road widening and associated interchange improvements in the vicinity of Interchange 6 in Mansfield Township, Burlington County (Milepost 48) to Interchange 9 in East Brunswick Township, Middlesex County (Milepost 83) and, because Colonial's pipeline runs substantially parallel to the New Jersey Turnpike within the limits of these improvements, included the relocation of sections of the pipeline.

The Board's Bureau of One Call ("BOC") sent out Notices of Violation regarding alleged violations by Conetec and Colonial Pipeline relating to the damage. BOC has subsequently entered into settlement agreements to resolve the allegations set forth in the Notices of Violation.

The Board has reviewed the settlements entered into with Conetec and Colonial and HEREBY FINDS them to be a reasonable settlements of the outstanding issues in each matter, in the public interest, in accordance with law and in accordance with the intent and purpose of the UFPA and all regulations promulgated thereto. Therefore, the Board HEREBY APPROVES and ADOPTS the Agreement as its own, incorporating by reference the terms and conditions therein as if fully set forth at length herein.

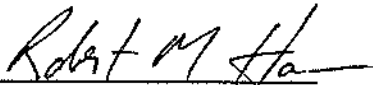
By settling these matters, Conetec and Colonial have waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Underground Facility Protection Act in connection with the above-referenced alleged violations of the Act.


Accordingly, the Board **HEREBY ORDERS** Conetec and Colonial to comply with the terms of their respective settlements as approved herein.

This Order shall be effective on October 17, 2012.

DATED: 10/4/12

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER

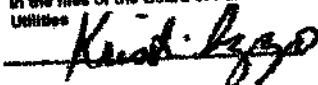

JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER

ATTEST: 
KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



**IN THE MATTER OF ALLEGED VIOLATIONS OF THE UNDERGROUND FACILITY
PROTECTION ACT, N.J.S.A. 48:2-73 ET SEQ. ORDER ACCEPTING SETTLEMENTS
DOCKET NO. GS10120913K and GS12080745K**

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