Agenda Date: 4/25/18 Agenda Item: VIA

RELIABILITY & SECURITY



STATE OF NEW JERSEY

Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

IN THE MATTER OF ALLEGED VIOLATIONS OF THE)	ORDER ACCEPTING
UNDERGROUND FACILITY PROTECTION ACT,	ý	SETTLEMENTS
N.J.S.A. 48:2-73 ET SEQ.)	
·)	DOCKET Nos.
)	ES18030244K, et al.
	Ĺ	(see attached appendix)

Parties of Record:

Donald A. Richards, JCP&L Craig Lynch, NJ Natural Gas Mike Vizzaro, G.M. White Electrical Charles P. Williams, C.P. W. Plumbing & Heating Antonio Ferreira, Ferreira Construction M.P. Scacifero, Elizabethtown Gas Company Timothy Benton, Weston Solutions Michael Bange, NJ American Water Michael Donahue, PSE&G Stacy A. Mitchell, SJ Gas Darren Santillan, Universal Concrete Michael Elward, J.F. Kiely Construction Stuart Harnett, Gray Supply Robert Perna, Jr., Perna Finnigan Construction Inc., Chaim J. Perlowitz, Coventy Square Condo Association John Sibule, Bolevs Tree Experts Scott Heck, Ringwood DPW Frank L. Corradetti, West Bay Construction

BY THE BOARD:1

The Board of Public Utilities ("Board") has jurisdiction to oversee and enforce the provisions of the Underground Facility Protection Act ("the Act") pursuant to the provisions set forth in N.J.S.A. 48:2-73, et seq. The primary purpose of the Act is to establish the One-Call Damage

¹ Commissioner Robert M. Gordon recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

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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 Act, 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 Act 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 Act 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 \$25,000.00 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. N.J.S.A. 48:2-86(c). 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).

Following reports of failure to call the System prior to commencing excavation or demolition activities, failure to hand dig and locate facilities, failure to use reasonable care, or reports of failure to mark out underground facilities or properly mark them, Board Staff contacted the entities listed on the attached Appendix and informed them of the date and location of the alleged violations, also listed on the Appendix.

In an attempt to resolve these matters, each excavator or operator listed on the Appendix has submitted an Offer of Settlement to the Board for its consideration. Each such Offer of Settlement is summarized in the Appendix. The Offers of Settlement were made available to the Board for its review. After consideration of the matters, the Board <u>HEREBY FINDS</u> these Offers of Settlement to be reasonable and in the public interest, and <u>HEREBY ACCEPTS</u> these Offers of Settlement in full satisfaction of the above referenced alleged violations of the Act.

By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has 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. It must also be noted that

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the acceptance of the Offers of Settlement are for settlement purposes only, and apply strictly to the specific incidents described in the Appendix. This acceptance is without prejudice as to the position of the State of New Jersey or any agency or subdivision thereof if other violations are present, now or in the future.

This Order shall be effective on May 5, 2018.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

DATED: 4/25/18

BOARD OF PUBLIC UTILITIES

BY:

JOSEPH L. FIORDALISO

PRESIDENT

MARY-ANNA HOLDEN

COMMISSIONER

DIANNE SOLOMON COMMISSIONER

UPENDRA J. CHIVUKULA COMMISSIONER

ATTEST:

AIDA CAMACHO-WELCH

SECRETARY

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

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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. ES18030244K et. al. (see attached appendix)

SERVICE LIST

Donald A, Richards JCP&L 300 Madison Avenue P.O. ox 1911 Morristown, NJ 07962

Craig Lynch NJ Natural Gas 1415 Wycoff Road Wall, NJ 07719

Mike Vizzaro G.M. White Electrical 2554 N. Delsea Drive Vineland, NJ 08360

Charles P. Williams C.P.W. Plumbing & Heating 301 E. Shellbay Avenue Cape May Court House, NJ 08210

Antonio Ferreira Ferreira Construction 31 Tannery Road Branchburg, NJ 08876

M.P. Scacifero Elizabethtown Gas Company 520 Green Lane Union, NJ 07083

Timothy Benton Weston Solutions 1090 Kings Georges Post Road Edison, NJ 08837

Michael Bange NJ American Water Company P.O. Box 5600 Cherry Hill, NJ 08034

John Sibule Boleys Tree Experts 440 W. Park Avenue Oakhurst, NJ 07755 Michael Donahue PSE&G P.O. Box 1868 Newark, NJ 07101

Stacy A. Mitchell SJ Gas One South Jersey Plaza Folsom, NJ 08037

Darren Santillan Universal Concrete 1047 Harding Hwy Buena, NJ 08310

Michael Elward JF Kiely Construction 700 McClellan Street Long Branch, NJ 07720

Stuart Harnett Gray Supply 199 Franklin Road Randolph, NJ 07869

Robert Perna, Jr., Perna Finnigan Construction Inc., 1921 E. Sherman Avenue Vineland, NJ 08361

Chaim J. Perlowitz Coventy Square Condo Association 445 E. Kennedy Blvd. Lakewood, NJ 08701

Scott Heck Ringwood DPW 60 Margaret King Avenue Ringwood, NJ 07456

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Frank L. Corradetti West Bay Construction 133 Pleasant Avenue Absecon, NJ 08012

Board of Public Utilities

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IN THE MATTER OF: ALLEGED VIOLATIONS OF THE UNDERGROUND FACILITY PROTECTION ACT, N.J.S.A. 48:2-73 ET.SEQ. ORDER ACCEPTING SETTLEMENTS Bureau of One Call - Settlements - APPENDIX- April 25 VIA 2018

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Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Telephone	ES1803-0244K	EOC2017-0068	Did not properly markout	\$3,000	JCP&L		01/10/2017	E. Main Street, Wrightstown	01/31/2017
Damage, Gas	GS18030286K	GOC2017-0142	Did not properly markout	\$3,000	NJ Natural Gas		02/28/2017	Cliffwood Road, Oakhurst	01/26/2018
Damage, Gas	GS1803286K	GOC2017-0380	Failure to use reasonable care	\$3,000		G.M. White Electrical	04/19/2017	Eldredge Road, Cape May Court House	02/09/2018
Damage, Gas	GS18030287K	GOC2017-0347	Did not have valid markout	\$3,000		CPW Plumbing & Heating	04/10/2017	Pacific Ave., Wildwood Crest	02/1//2018
Damage, Gas	GS18030288K	GOC2017-0197	Did not have valid markout	\$3,000		Ferreira Construction	03/08/2017	Mantoloking Road, Brick	02/12/2018
Damage, Gas	GS18030289K	GOC2015-0422	Did not properly markout	\$3,000	NJ Natural Gas		04/15/2015	9th Ave & S. Central Ave., Seaside Park	01/26/2018
Damage, Gas	GS18030290K	GOC2015-0440	Did not properly markout	\$3,000	NJ Natural Gas		04/27/2015	Pitman Ave., Ocean Grove	01/26/2018
Damage, Gas	GS18030291K	GOC2015-0682	Did properly markout	\$3,000	E'Town Gas		06/02/2015	Hiawatha Ave., Hillside	02/06/2018
Damage, Gas	GS18030292K	GOC2015-0679	Did not properly markout	\$3,000	E'Town Gas		06/11/2015	Green Lane, Union	02/06/2018
Damage, Gas	GS18030293K	GOC2015-0977	Did not properly markout		E'Town Gas		07/23/2015	Front Street, Scotch Plains	02/06/2018
Damage, Gas	GS18030294K	GOC2015-0988	Did not have a valid markout	\$3,000	E'Town Gas		07 <i>/</i> 27 <i>/</i> 2015	Front Street, Scotch Plains	02/06/2018
Damage, Gas	GS18030295K	GOC2015-0953	Did not properly markout	\$3,000	E'Town Gas		07/17/2015	Sycamore Ave., Scotch Plains	02/06/2018
Damage, Gas	GS18030296K	GOC2016-0655	Failure to use reasonable care	\$3,000		Weston Solutions	06/14/2016	Birchly Court, West Deptford	01/26/2018
Damage, Gas	WS18020096K	NOC2017-0040	Did not properly mark out	\$3,000	NJ American Water		12/04/2017	Wintergreen Ave. W., Piscataway	12/29/2017
Damage, Gas	GS18030300K	GOC2015-0267	Did not properly mark out	\$3,000	PSE&G		03/25/2015	Midland Ave., Montclair	01/05/2018
Damage, Gas	GS18030301K	GOC2015-0264	Did not properly markout	\$3,000	PSE&G		03/11/2015	JFK Parkway, Short Hills	01/05/2018
Damage, Gas	GS18030302K	GOC2015-0268	Did not properly mark out	\$3,000	PSE&G		03/27/0215	Midland Ave., Montclair	01/05/2018
Damage, Gas	GS18030303K	GOC2016-0578	Did not properly mark out	\$3,000	PSE&G		05/23/2016	Washington Valley Rd., Bridgewater Twsp.	01/05/2018
Damage, Gas	GS18030304K	GOC2015-0217	Did not properly mark out	\$3,000	PSE&G		03/23/2015	Kirby Court, Mt. Holly	01/03/2018
Damage; Gas	GS18030305K	GOC2015-0222	Did not properly mark out	\$3,000	PSE&G		03/27/2015	Noli Place, Newark	01/03/2018
Damage, Gas	GS18030306K	GOC2016-0476	Did not properly mark out	\$3,000	PSE&G		05/11/2016	W. Railroad Ave., Tenafly	02/15/2018
Damage, Gas	GS18030371K	GOC2015-1294	Did not properly mark out		PSE&G		09/11/2015	Park Ave., Nutley	01/19/2018
Damage, Gas	GS18030308K	GOC2016-1644	Did not properly mark out	\$3,000	SJ Gas		11/01/2016	E. Sherman Ave., Vineland	02/28/2018
Damage, Gas	GS18032309K	GOC2015-0482	Did not properly mark out	\$3,000	SJ Gas		05/01/2015	Yake Ave., Cape May Point	02/28/2018
Damage, Telephone	GS18030310K	GOC2015-1187	Did not properly mark out	\$3,000	E'Town Gas		08/26/2015	Lake Avenue, Metuchen	02/15/2018
Damage, Gas	GS18030313K	GOC2015-0180	Did not properly mark out	\$3,000	E'Town Gas		03/17/2015	Rachel Court, Clinton	02/15/2018
Damage, Gas	GS18030314K	GOC2015-0369	Did not properly mark out	\$3,000	E'Town Gas		04/25/2015	State Street, Perth Amboy	02/15/2018

IN THE MATTER OF: ALLEGED VIOLATIONS OF THE UNDERGROUND FACILITY PROTECTION ACT, N.J.S.A. 48:2-73 ET.SEQ. ORDER ACCEPTING SETTLEMENTS Bureau of One Call - Settlements - APPENDIX- April 25 VIA 2018

Damage, Cable Non- damage, Water Damage, Cable Non- damage Damage, Water Damage, Cable Damage, Cable Damage, Cable Damage, Cable	GS18030317K GS18030317K GS18030318K GS18030320K GS18030321K		Type of Violation Did not properly mark out Did not properly mark out Did not properly mark out Did not have a valid markout Did not hand dig within 2 ft. of mark out Failure to use reasonable	\$3,000 \$3,000 \$3,000 \$3,000 \$3,000	Operator E'Town Gas E'Town Gas E'Town Gas	Excavator	Violation Date 10/17/2016 11/05/2015 06/30/2016	Description/Location Raritan Road, Roselle W. Grand Street, Elizabeth Vauxhall Road, Union	Payment Received 02/15/2018 02/15/2018
Gas Damage, Water Damage, Cable Non- damage Damage, Water Damage, Electric Damage,	G\$18030316K G\$18030317K G\$18030318K G\$18030320K G\$18030321K	GOC2015-1639 GOC2016-0815 GOC2015-0122 GOC2016-1755	out Did not properly mark out Did not properly mark out Did not have a valid markout Did not hand dig within 2 ft. of mark out	\$3,000 \$3,000 \$3,000	E'Town Gas		11/05/2015	W. Grand Street, Elizabeth	02/15/2018
Water Damage, Cable Non- damage Damage, Water Damage, Electric Damage,	GS18030317K GS18030317K GS18030318K GS18030320K GS18030321K	GOC2016-0815 GOC2015-0122 GOC2016-1755	out Did not properly mark out Did not have a valid markout Did not hand dig within 2 ft. of mark out	\$3,000 \$3,000		Line of O			
Cable Non- damage Damage, Water Damage, Electric Damage,	GS18030318K GS18030320K GS18030321K	GOC2015-0122 GOC2016-1755	out Did not have a valid markout Did not hand dig within 2 ft. of mark out	\$3,000	E'Town Gas	Itain and One of	06/30/2016	Vauxhall Road, Union	02/15/2018
damage Damage, Water Damage, Electric Damage,	GS18030320K GS18030321K	GOC2016-1755	markout Did not hand dig within 2 ft. of mark out	\$3,000		Haliman at Communic			. '
Damage, (Water Damage, Electric Damage,	GS18030321K		2 ft. of mark out			Universal Concrete	02/27/2015	Haven Ave., Ocean City	02/20/2018
Electric Damage,		GOC2017-0576	Failure to use reasonable	40,000		JF Kiely Construction	11/28/2016	Ensign Court, Toms River	02/16/2018
	GS18030322K		care	\$3,000		Gray Supply	05/22/2017	White Meadow Ave., Randolph	02/14/2018
		GOC2017-0274	Failure to use reasonable care	\$3,000		Perna Finnigan Construction, Inc.,	03/29/2017	60th Street, Avalon	02/21/2018
Damage, C Électric	3S18030323K	GOC2017-0829	Did not have valid mark out	\$3,000		Coventry Square Condo Association	07/03/2017	Stratford Pl., Lakewood	02/27/2018
Damaga	GS18030324K	GOC2017-0318	Did not have valid mark out	\$3,000		Boley's Tree Experts	04/11/2017	Wall Road, Spring Lake	02/20/2018
Damage, Gas	GS18030325K	GOC2017-0544	Did not have valid mark out	\$3,000		Borough of Ringwood	05/18/2017	Margaret King Ave., Ringwood	02/28/2018
Damage, Gas	GS18030326K	GOC2017-0180	Did not properly mark out	\$3,000	E'Town Gas		02/15/2018	Morris Place, Roselle	02/15/2018
Damage, Gas	GS18030327K	GOC2017-0369	Did not properly mark out	\$3,000	E'Town Gas		04/25/2017	Bond Street, Elizabeth	02/15/2018
Damage, Gas	GS18030328K	GOC2017-0042	Did not properly mark out		E'Town Gas		01/18/2017	Lawrie Street, Perth Amboy	02/15/2018
Damage, Gas	GS18030329K	GOC2017-0210	Did not properly mark out	\$3,000	E'Town Gas		03/17/2017	Jefferson Street, Edison	02/15/2018
Damage, Gas	GS18030330K	GOC2017-0177	Did not properly mark out	\$3,000	E'Town Gas		03/06/2017	Sheridan Ave., Roselle	02/15/2018
Damage, Gas	GS18030331K	GOC2017-0106	Did not properly mark out	\$3,000	E'Town Gas		02/13/2017	North Ave., Fanwood	02/15/2018
Damage, Gas	GS18030332K	GOC2017-0181	Did not properly mark out	\$3,000	E'Town Gas		03/13/2017	Elizabeth Ave., Elizabeth	02/15/2018
Damage, Gas	GS18030333K	GOC2017-0342	Failure to use reasonable care	\$3,000		West Bay Construction	04/04/2017	W. 17th Ave., N. Wildwood	03/03/2018
Damage, Gas	ES18030334K	EOC2017-0005	Did not properly mark out	\$3,000	PSE&G		01/10/2017	Washington Bivd., Jersey City	02/16/2018
Damage, Gas	GS18030335K	GOC2017-0437	Did not properly mark out		Decic		04/21/2017	Belmont Ave., North Haledon	03/02/2018
Damage, Gas	GS18030336K	GOC2017-0444	Did not properly mark out	\$3,000	PSE&G		05/03/2017	White Oak Terr., Belleville	01/18/2018
Damage, (Gas	GS18030337K	GOC2017-0433	Did not properly mark out	\$3,000	PSEAG		04/25/2016	Phelps Ave., Bergenfield	02/13/2018
Damage	GS18030338K	GOC2017-0329	Did not properly mark out	\$3,000	PSE&G		04/07/2017	Cumbermeade Rd., Fort Lee	02/13/2018
Damage, Gas	GS18030339K	GOC2017-0248	Did not properly mark out	\$3,000	PSE&G		03/21/2017	Morris Ave., Summit	02/14/2018
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Total 5	51	\$153,000.0	00				<u> </u>	<u>.</u>	<u> </u>