



Agenda Date: 5/22/18
Agenda Item: VIA

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/

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. GS18040366K,
) et al. (see attached appendix)

Parties of Record:

- Stacy A. Mitchell, Esq.**, South Jersey Gas
- Bryan R. Pennock**, Pennock Plumbing & Heating
- Robert Moniter**, Living Stone Landscape & Design
- Celia Goncalves**, JMG Concrete, Inc.
- John Kline**, Kline Brothers Landscaping
- John Facus**, Quality Electrical Construction Company
- Richard Thorpes**, Thorpes Nursery & Landscape
- Nick D'Angelo**, D'Angelo Electrical Contractor, Inc.,
- Rory Senseman**, South State, Inc. General Contractor
- Heather Brue**, Montana Construction
- Nick Depoto**, Elizabethtown Gas
- Michael Donahue**, PSE&G
- Jonathan Ware**, Gray Construction
- Maria Diaz**, New Jersey Natural Gas
- Eric Ree**, EP Landscape Construction
- Frank Zusio**, Liberty Mechanical Contractors
- Wes Covely**, Pioneer Pipe Contractor, Inc.
- Juan C. Rosaio**
- Anthony Petagro**, NAPP-GRECCO Co.

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

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.

N.J.S.A. 48:2-73, et seq. The primary purpose of the Act is to establish the One-Call Damage Prevention System ("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 **HEREBY FINDS** these Offers of Settlement to be reasonable and in the public interest, and **HEREBY ACCEPTS** these Offers of Settlement in full satisfaction of the above referenced alleged violations of the Act.

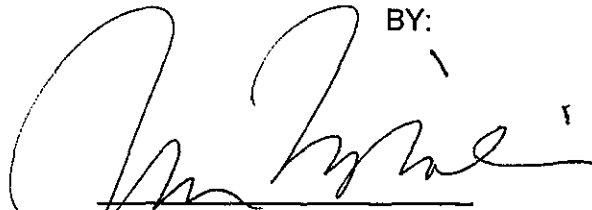
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations. It must also be noted that 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 June 1, 2018.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

DATED: 5/22/18

BOARD OF PUBLIC UTILITIES
BY:



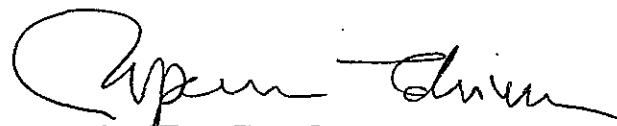
JOSEPH L. FIORDALISO
PRESIDENT



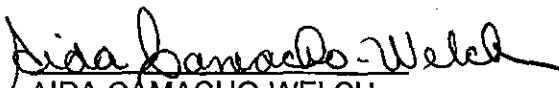
MARY-ANNA HOLDEN
COMMISSIONER



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.

**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. GS18040366K et. al. (see attached appendix)**

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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- May 22 VIA 2018

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS18040366K	GOC2017-0470	Did not properly mark out	\$3,000	SJ Gas		05/12/2017	Fork Bridge Rd., Pittsgrove	03/07/2018
Damage, Gas	GS18040411K	GOC2015-0336	Did not have valid mark out	\$3,000		Pennock Plumbing & Heating	04/02/2015	RT 73S., Evesham	02/28/2018
Damage, Gas	GS18040410K	GOC2016-0923	Did not have valid mark out	\$3,000		Living Stone Landscape & Design	07/12/2016	Otter Ct., Harrison Twps.	04/02/2018
Damage, Gas	GS18040406K	GOC2016-0913	Did not properly mark out	\$3,000	SJ Gas		07/07/2016	7th Street, Hamilton	04/06/2018
Damage, Gas	GS18040409	GOC2016-0409	Did not properly mark out	\$3,000	SJ Gas		04/18/2016	95th Street, Stone Harbor	04/06/2018
Damage, Gas	GS18040408K	GOC2015-0288	Did not properly mark out	\$3,000	SJ Gas		4/09/2015	E. 9th St. Ocean City	04/06/2018
Damage, Gas	GS18040407K	GOC2017-0443	Failure to use reasonable care	\$3,000		JMG Concrete, Inc.	05/02/2017	Poplar Road, Piscataway	04/20/2018
Damage, Gas	GS18040399K	GOC2017-0478	Failure to use reasonable care	\$3,000		Kline Brothers Landscaping	05/05/2017	E. 15th Street, Surf City	03/31/2018
Damage, Gas	GS1804042K	GOC2017-0828	Did not have valid mark out	\$3,000		Quality Electrical Construction Co.	07/03/2017	Plum Lane, Holmdel	03/09/2018
Damage, Gas	GS18040403K	GOC2017-0116	Did not properly mark out	\$3,000	SJ Gas		02/08/2017	Asbury Ave., Ocean City	03/07/2018
Damage, Gas	GS18040404K	GOC2017-0163	Did not properly mark out	\$3,000	SJ Gas		02/16/2018	Wesley Ave., Ocean City	03/07/2018
Damage, Gas	GS18040405K	GOC2017-0224	Did not properly mark out	\$3,000	SJ Gas		03/13/2017	W. Jimmie Leeds Road, Galloway	03/07/2018
Damage, Gas	GS18040401K	GOC2017-0258	Did not properly mark out	\$3,000	SJ Gas		03/22/2017	E. Bayview Ave., Pleasantville	03/07/2018
Damage, Gas	GS18040414K	GOC2017-0761	Did not properly mark out	\$3,000	SJ Gas		06/24/2017	Cedarbrook Rd., Winslow Twp.	03/07/2018
Damage, Gas	GS18040415K	GOC2017-0842	Did not have valid mark out	\$3,000		Thorpes Nursery & Landscape	07/10/2017	Pinecrest Rd. Oakhurst	03/09/2018
Damage, Gas	GS18040416K	GOC2017-0092	Did not have valid mark out	\$3,000		D'Angelo Electrical Contractor, Inc.	01/24/2017	Creek Road, Hainesport	03/08/2018
Damage, Gas	GS18040417K	GOC2017-0272	Did not have valid mark out	\$3,000		South State, Inc. General Contractor	03/27/2017	Nixon & Vineland Ave., Deerfield Twp.	03/08/2018
Damage, Gas	GS18040418K	GOC2016-1496	Failure to use reasonable care	\$3,000		Montana Construction	10/05/2016	Cedar Terrace, Parsippany	01/19/2018
Damage, Gas	GS18040419K	GOC2017-0209	Did not properly mark out	\$3,000	E'Town Gas		03/20/2017	Sheridan Ave., Roselle	02/06/2018
Damage, Gas	GS18040420K	GOC2017-0375	Did not properly mark out	\$3,000	PSE&G		04/24/2017	Thackery Lane, Mendham	02/14/2018
Damage, Gas	GS18040421K	GOC2017-0299	Did not properly mark out	\$3,000	PSE&G		04/07/2017	Montgomery Ave., Irvington	02/20/2018
Damage, Gas	GS18040422K	GOC2017-0076	Did not properly mark out	\$3,000	PSE&G		01/10/2017	Tremont Ave, Newark	01/25/2018
Damage, Electric	ES18040423K	EOC2017-0021	Did not properly mark out	\$3,000	PSE&G		02/28/2017	Cozzens Lane, North Brunswick	02/14/2018
Damage, Gas	GS18040424K	GOC2016-1715	Did not properly mark out	\$3,000	PSE&G		11/20/2016	Atlantic Ave., Camden	01/10/2018
Damage, Gas	GS18040425K	GOC2016-0763	Did not properly mark out	\$3,000	PSE&G		06/21/2016	Mosher Rd., Franklin Twp.	01/10/2018
Damage, Gas	GS18040426K	GOC2016-1629	Did not properly mark out	\$3,000	PSE&G		11/08/2016	E. 7th Street, Plainfield, NJ	01/10/2018
Damage, Gas	GS18040400K	GOC2017-0273	Did not properly mark out	\$3,000	SJ GAS		03/27/2017	Seaview Ave., Wildwood Crest	03/07/2018

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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, Gas	GS18040438K	GOC2016-1596	Did not properly mark out	\$3,000	PSE&G		10/25/2016	Whitewood Court, Plainfield	2/14/2018
Damage, Gas	GS18040439K	GOC2016-0750	Did not properly mark out	\$3,000	PSE&G		06/09/2016	Rhode Island Ave., East Orange	1/19/2018
Damage, Gas	GS18040442K	GOC2017-0218	Did not properly mark out	\$3,000	SJ Gas		03/06/2017	E. 7 th Ave., North Wildwood	03/21/2018
Damage, Gas	GS18040444K	GOC2017-0160	Did not properly mark out	\$3,000	SJ Gas		02/15/2017	Oak Drive, Somerdale	03/21/2018
Damage, Gas	GS18040441K	GOC2016-0715	Did not properly mark out	\$3,000	PSE&G		06/20/2016	13 th Avenue, Newark	01/18/2018
Damage, Gas	GS18040443K	GOC2017-0766	Did not have valid mark out	\$3,000		Gray Construction	06/27/2017	Oldmans Creek Rd., Logan Twp	03/30/2018
Damage, Gas	GS18040445K	GOC2016-1627	Did not properly mark out	\$3,000	PSE&G		11/07/2016	Martin Luther King Ave., Morristown	02/14/2018
Damage, Gas	GS18040446K	GOC2016-1605	Did not properly mark out	\$3,000	PSE&G		10/27/2016	63 rd Street, West New York	02/15/2018
Damage, Gas	GS18040481K	GOC2017-0483	Did not properly mark out	\$3,000	NJ Natural Gas		05/11/2017	Lien Street, Toms River	11/15/2017
Damage, Gas	GS18040482K	GOC2017-0194	Carelessness did not hand dig	\$3,000	NJ Natural Gas		03/06/2017	Pine Tree Way, Belmar	11/15/2017
Damage, Gas	GS18040483K	GOC2016-1834	Did not properly mark out	\$3,000	E'Town		01/23/2016	E. Iselin Pkwy, Woodbridge Twsp.	3/26/2018
Damage, Gas	GS18040484K	GOC2016-1782	Did not properly mark out	\$3,000	E'Town		03/26/2018	Perth Amboy, NJ	03/26/2018
Damage, Gas	GS18040485K	GOC2016-1523	Did not have valid mark out	\$3,000		EP Landscape Construction	10/17/2016	186 E. Blackwell Street, Dover	02/17/2018
Damage, Gas	GS18040486K	GOC2017-0022	Did not have valid mark out	\$3,000	PSE&G		01/13/2017	Crosswicks Road, Bordentown	04/03/2018
Damage, Gas	GS18040487K	GOC2017-0122	Did not have valid mark out	\$3,000		Liberty Mechanical Contractors	02/07/2017	Crescent Love, Irvington	04/15/2018
Damage, Gas	GS18040488K	GOC2017-0314	Did not have valid mark out	\$3,000		Pioneer Pipe Contractor, Inc.	04/11/2017	Ocean Ave., Lakewood Twsp	04/17/2018
Damage, Gas	GS18040489K	GOC2017-0315	Did not have valid mark out	\$3,000		Pioneer Pipe Contractor, Inc	04/17/2018	Ocean Ave., Lakewood Twsp	04/17/2018
Damage, Gas	GS18040490K	GOC2017-0175	Did not have valid mark out	\$3,000		Juan C. Rosaio	03/02/2017	Haven Ave., Scotch Plains	04/16/2018
Damage, Gas	GS18040491K	GOC2017-0070	Carelessness did not hand dig	\$3,000		NAPP-GRECCO Co.,	01/27/2017	Rose Street, Edison	04/12/2018
Damage, Gas	GS18040492K	GOC2017-0228	Did not properly mark out	\$3,000	PSE&G		03/14/2017	Safran Ave., Edison	03/26/2018
Damage,									
Damage,									
Damage,									
Total	47 cases	\$141,000.00							