



Agenda Date: 12/21/22  
Agenda Item: VIA

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://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 to -91 )  
)  
) DOCKET NOS. GS22110671K  
) et al. (see attached Appendix)

**Parties of Record:**

- Michael Hartman**, Ultimate Drain Cleaning
- John Wyckoff**, New Jersey Natural Gas Company
- Tri Mountain Home Improvements
- Lisa Cuila**, Infinigy Solutions, LLC
- Lori Capaccio**, South Jersey Gas Company
- Michael Malloy**, NJ American Water Company
- Logan Massaro**, Massaro Construction
- James Wildish**, American Asphalt
- Thomas Bragen**, Garon T. Plumbing
- Chelsey Van Heist**, Public Service Electric and Gas Company
- Dan Danko, CEO**, Dan Mor Mechanical

BY THE BOARD:

**I. BACKGROUND**

The New Jersey Board of Public Utilities (“Board”) has jurisdiction to oversee and enforce the provisions of the Underground Facility Protection Act (“Act”) pursuant to N.J.S.A. 48:2-73 to -91. The Act establishes 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, and/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.

Pursuant to the Act, violators of its provisions shall be subject to civil penalties of no less than \$1,000.00 and no 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 be subject to civil penalties not to exceed \$200,000.00 per violation per day, and not to exceed \$2,000,000.00 for any related series of violations. N.J.S.A. 48:2-86(c). In addition, costs may be assessed related to any Board investigation, inspection, or monitoring survey which leads to the establishment of a violation, and/or the reasonable costs of preparing and litigating the matter. N.J.S.A. 48:2-86(b)(2).

Following reports of various alleged violations under the Act including, but not limited to, failing to call the System prior to commencing excavation or demolition activities, failing to hand dig and locate facilities, failing to use reasonable care, and/or failing to mark out or properly mark out underground facilities, Board Staff contacted the alleged entities and informed them of the date and location of the alleged violations. A complete list of entities and violations is provided in the Appendix attached hereto and made a part hereof.

In an attempt to resolve these matters, the entities in the Appendix submitted an Offer of Settlement to the Board for its review and consideration. Said Offers of Settlement are also provided in the attached Appendix. Each such Offer of Settlement is summarized in the Appendix.

## II. **DECISION AND FINDINGS**

After consideration of the matters provided in the Appendix, including the alleged violations and the Offers of Settlement, the Board **HEREBY FINDS** the Offers of Settlement to be reasonable and in the public interest, and **HEREBY ACCEPTS** the Offers of Settlement in full satisfaction of the alleged violations of the Act as provided in the Appendix attached hereto and made part hereof.


By acceptance of the 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 is for settlement purposes only and applies 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.

**NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.**

This Order shall be effective on December 28, 2022.

DATED: December 21, 2022

BOARD OF PUBLIC UTILITIES  
BY:

  
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JOSEPH L. FIORDALISO  
PRESIDENT

  
\_\_\_\_\_  
MARY-ANNA HOLDEN  
COMMISSIONER

  
\_\_\_\_\_  
DIANNE SOLOMON  
COMMISSIONER

  
\_\_\_\_\_  
ROBERT M. GORDON  
COMMISSIONER

  
\_\_\_\_\_  
DR. ZENON CHRISTODOULOU  
COMMISSIONER

ATTEST:   
\_\_\_\_\_  
CARMEN D. DIAZ  
ACTING 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 to -91

DOCKET NOS. GS22110671K et al. (see attached Appendix)

SERVICE LIST

<p>Michael Hartman Ultimate Drain Cleaning 23 Stockbridge Court Shamong, NJ 08088</p> <p>John Wyckoff New Jersey Natural Gas Company 1415 Wyckoff Road Wall, NJ 07719 <a href="mailto:Jwyckoff@njng.com">Jwyckoff@njng.com</a></p> <p>Tri Mountain Home Improvements 42 Carter Avenue North Middletown, NJ 07748</p> <p>Lisa Cuila Infinigy Solutions, LLC 1033 Watervliet Shaker Road Albany, NY 12205</p> <p>Lori Capaccio South Jersey Gas Company One South Jersey Plaza Folsom, NJ 08037 <a href="mailto:lcapaccio@sjindustries.com">lcapaccio@sjindustries.com</a></p> <p>Michael Malloy New Jersey American Water Company 167 JFK Parkway Short Hills, NJ 07078 <a href="mailto:michael.malloy@amwater.com">michael.malloy@amwater.com</a></p> <p>Logan Massaro Massaro Construction 1311 Allaire Avenue Ocean, NJ 07712</p> <p>James Wildish American Asphalt 100 Main Street W. Collingswood Heights, NJ 08059</p>	<p><b><u>Attorney General's Office</u></b> Matko Ilic, DAG NJ Department of Law and Public Safety Richard J. Hughes Justice Complex 25 Market Street – P.O. Box 112 Trenton, NJ 08625 <a href="mailto:matko.ilic@law.njoag.gov">matko.ilic@law.njoag.gov</a></p> <p><b><u>Board of Public Utilities</u></b> 44 South Clinton Avenue, 1<sup>st</sup> Floor PO Box 350 Trenton, NJ 08625-0350</p> <p>Carmen Diaz, Acting Secretary <a href="mailto:board.secretary@bpu.nj.gov">board.secretary@bpu.nj.gov</a></p> <p>Stacy Peterson, Deputy Executive Director <a href="mailto:stacy.peterson@bpu.nj.gov">stacy.peterson@bpu.nj.gov</a></p> <p>Heather Weisband, Senior Counsel <a href="mailto:heather.weisband@bpu.nj.gov">heather.weisband@bpu.nj.gov</a></p> <p>Michael Beck, General Counsel <a href="mailto:michael.beck@bpu.nj.gov">michael.beck@bpu.nj.gov</a></p> <p><b><u>Division of Reliability &amp; Security</u></b></p> <p>Francis Gaffney, Director <a href="mailto:francis.gaffney@bpu.nj.gov">francis.gaffney@bpu.nj.gov</a></p> <p>Jody Raines, Deputy Director <a href="mailto:jody.raines@bpu.nj.gov">jody.raines@bpu.nj.gov</a></p> <p>Phillip Galka <a href="mailto:phillip.galka@bpu.nj.gov">phillip.galka@bpu.nj.gov</a></p> <p>Ann Lang <a href="mailto:ann.lang@bpu.nj.gov">ann.lang@bpu.nj.gov</a></p> <p>Lauren Mattox <a href="mailto:lauren.mattox@bpu.nj.gov">lauren.mattox@bpu.nj.gov</a></p>
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<p>Thomas Bragen Garon T. Plumbing 1809 Route 88 STE A Brick, NJ 08724 <a href="mailto:sendhelp@sallgaront.com">sendhelp@sallgaront.com</a></p> <p>Chelsey Van Heist Public Service Electric and Gas Company 80 Park Plaza Newark, NJ 07102 <a href="mailto:chelsey.vanheist@pseg.com">chelsey.vanheist@pseg.com</a></p> <p>Dan Danko, CEO Dan Mor Mechanical 156 Hempstead Road Hamilton, NJ 08610 <a href="mailto:rweaver@danmor.com">rweaver@danmor.com</a></p>	
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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 – December 21, 2022  
Docket Nos. GS22110671K et al.

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
GAS	GS22110671K	GOC2021-0232	Did not have a valid mark out	\$3,000		Ultimate Drain Cleaning	03/11/2021	Westervelt Ave., North Plainfield, NJ	09/14/2022
GAS	GS22110672K	GOC2022-0557	Did not properly mark out	\$3,000	South Jersey Gas		05/21/2022	Hazelwood Lane Marlton, NJ	09/20/2022
GAS	GS22110673K	GOC2022-0888	Did not properly mark out	\$3,000	NJ Natural Gas		07/20/2022	8 <sup>th</sup> Avenue, Neptune, NJ	09/20/2022
GAS	GS22110674K	GOC2021-0961	Did not properly mark out	\$3,000	South Jersey Gas		08/05/2021	Susquehanna Ave., Wildwood, NJ	09/20/2022
GAS	GS22110675K	GOC2022-0878	Did not properly mark out	\$3,000	NJ Natural Gas		07/15/2022	Princess Court Toms River, NJ	09/20/2022
GAS	GS22110676K	GOC2022-0200	Did not have a valid mark out	\$3,000		Tri Mountain Home Improvements	03/02/2022	Tuxedo Road Rumson, NJ	09/06/2022
GAS	GS22110677K	GOC2022-0957	Did not have a valid mark out	\$3,000		Infinigy Solutions	08/09/2022	Stonehill Road, Freehold, NJ	09/20/2022
GAS	GS22110678K	GOC2020-1622	Did not properly mark out	\$3,000	South Jersey Gas		11/09/2020	Center Street Mantua, NJ	09/20/2022
WATER	WS22110679K	WOC2021-0036	Did not properly mark out	\$3,000	NJ American Water		04/06/2021	Berkeley Road Millburn, NJ	10/03/2022
GAS	GS22110680K	GOC2022-0954	Did not have a valid mark out	\$3,000		Massaro Construction	08/05/2022	Orchard Drive Oceanport, NJ	10/03/2022
GAS	GS22110681K	GOC2022-0864	Did not have a valid mark out	\$3,000		American Asphalt	07/21/2022	Sicklerville Road Sicklerville, NJ	10/04/2022
ELECTRIC	ES22110682K	EOC2022-0144	Did not have a valid mark out	\$3,000		Garon T. Plumbing	06/22/2022	Briar Mills Road Brick, NJ	10/04/2022
GAS	GS22110683K	GOC2021-0289	Did not properly mark out	\$3,000	NJ Natural Gas		03/29/2021	Pine Blvd., Lakewood, NJ	10/04/2022
GAS	GS22110684K	GOC2021-0281	Did not properly mark out	\$3,000	NJ Natural Gas		03/23/2021	State Route 35, Middletown, NJ	10/04/2022
GAS	GS22110685K	GOC2021-0907	Did not properly mark out	\$3,000	PSE&G (G)		08/03/2022	Mt. Prospect Ave., Clifton, NJ	09/15/2022
GAS	GS22110686K	GOC2022-0250	Did not have a valid mark out	\$3,000		Dan Mor Mechanical	03/23/2022	Virginia Terrace, W Long Branch, NJ	10/07/2022
<b>Total Cases</b>	<b>16</b>								
<b>Total Amount</b>	<b>\$48,000</b>								