



Agenda Date: 3/20/24  
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 ET SEQ. )  
)  
) ORDER ACCEPTING  
SETTLEMENTS  
)  
) DOCKET NOS. AS24020077K  
) et al. (see attached Appendix)

**Party of Record:**

- Fiscal Manager of Operations**, Transcontinental Gas Pipe Line
- David W. Hayes**, Verizon
- Fiscal Manager of Operations**, Northstar Demolition
- Fiscal Manager of Operations**, James Conner Plumbing
- Fiscal Manager of Operations**, Fort Lee Parking Authority
- Fiscal Manager of Operations**, Parsippany-Troy Hills Water Dept.
- Fiscal Manager of Operations**, Elmwood Services Inc.
- Fiscal Manager of Operations**, Twin Pines Waste Disposal
- Mobeen Khan**, New Jersey Natural Gas Company
- Fiscal Manager of Operations**, L. Feriozzi Concrete
- Fiscal Manager of Operations**, Irvington Dept of Public Works
- Chelsey Gaworecki**, Public Service Electric and Gas Company
- Fiscal Manager of Operations**, Underground Utilities Corp.
- Fiscal Manager of Operations**, Kemsco Construction & Equip Company
- Fiscal Manager of Operations**, Margate Public Works
- Fiscal Manager of Operations**, Mazzara Excavation
- Fiscal Manager of Operations**, Hopewell Public Works
- Fiscal Manager of Operations**, Henkels & McCoy
- Fiscal Manager of Operations**, T N T Commonwealth Construction
- Fiscal Manager of Operations**, Thomas J. O’Beirne & Company, Inc.
- Fiscal Manager of Operations**, Celtic Concepts, Inc.

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, N.J.S.A. 48:2-73 et seq. (“Act”). The Act establishes the One-Call Damage Prevention System (“One-Call 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 hazardous liquids. 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 One-Call System prior to commencing excavation and failing to mark out or properly mark out underground facilities, Board Staff issued a Notice of Probable Violation and Offer of Settlement to each of the alleged violators and informed them of the date and location of the alleged violations. A complete list of entities that accepted said Offers of Settlement is provided in Appendix A attached hereto and made a part hereof.<sup>1</sup>

## II. DECISION AND FINDINGS

After consideration of the matters provided in Appendix A, 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 Appendix A 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

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<sup>1</sup> The 28 Offers of Settlement were accepted by the alleged violators, and each made full payment on the dates provided in Appendix A.

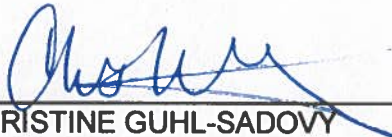
violations. It must also be noted that the acceptance of the Offers of Settlement is for settlement purposes only and applies strictly to the specific incidents described in Appendix A. This acceptance is without prejudice as to the position of the State of New Jersey or any agency or subdivision thereof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

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


This Order shall be effective on March 27, 2024.

DATED: March 20, 2024

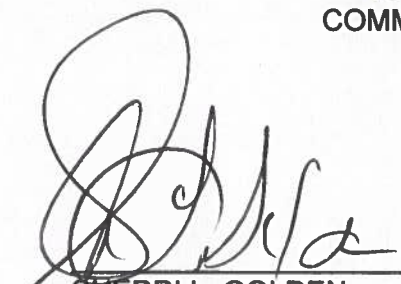
BOARD OF PUBLIC UTILITIES  
BY:

  
CHRISTINE GUHL-SADOVY  
PRESIDENT

  
DR. ZENON CHRISTODOULOU  
COMMISSIONER

  
MARIAN ABDOU  
COMMISSIONER

  
MICHAEL BANGE  
COMMISSIONER

ATTEST:   
SHERRI L. GOLDEN  
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.

DOCKET NOS. AS24020077K et al. (see attached Appendix)

SERVICE LIST

Transcontinental Gas Pipe Line  
718 Patterson Plank Road  
Carlstadt, NJ 07072  
Attention: Fiscal Manager of Operations

David W. Hayes  
Verizon  
999 West Market Street – 3<sup>rd</sup> Floor  
Freehold, NJ 07728

Northstar Demolition  
55 Progress Place. – Unit 1  
Jackson, NJ 08527  
Attention: Fiscal Manager of Operations

James Conner Plumbing  
505 Route 168 – Suite B & C  
Turnersville, NJ 08012  
Attention: Fiscal Manager of Operations

Fort Lee Parking Authority  
309 Main Street  
Fort Lee, NJ 07024  
Attention: Fiscal Manager of Operations

Parsippany-Troy Hills, Water Department  
1001 Parsippany Blvd.  
Parsippany, NJ 07054  
Attention: Fiscal Manager of Operations

Elmwood Services, Inc.  
P.O. Box 5680  
Patterson, NJ 07509  
Attention: Fiscal Manager of Operations

Twin Pines Waste Disposal  
51 Washington Way  
Tabernacle, NJ 08088  
Attention: Fiscal Manager of Operations

Mobeen Khan  
New Jersey Natural Gas Company  
1415 Wyckoff Road – P.O. Box 1464  
Wall, NJ 07719  
[mdiaz@njng.com](mailto:mdiaz@njng.com)

L. Feriozzi Concrete  
3010 Sunset Avenue  
Atlantic City, NJ 08401  
Attention: Fiscal Manager of Operations

Irvington Dept. of Public Works  
One Civic Square  
Irvington, NJ 07111  
Attention: Fiscal Manager of Operations

Chelsey Gaworecki  
Public Service Electric and Gas Company  
410 Silver Lake Avenue  
Edison, NJ 08817  
[chelsey.gaworecki@pseg.com](mailto:chelsey.gaworecki@pseg.com)

Underground Utilities Corp.  
711 Commerce Road  
Linden, NJ 07036  
Attention: Fiscal Manager of Operations

Kemsco Construction & Equip., Company  
139 Harper Street  
Newark, NJ 07114  
Attention: Fiscal Manager of Operations

Margate Public Works  
Benson & Winchester Avenue  
Margate City, NJ 08402  
Attention: Fiscal Manager of Operations

Mazzara Excavation  
276 Jacobstown-New Egypt Road  
Wrightstown, NJ 08581  
Attention: Fiscal Manager of Operations

Hopewell Public Works  
88 East Broad Street  
Hopewell, NJ 08525  
Attention: Fiscal Manager of Operations

Henkels & McCoy  
512 Elbow Lane  
Burlington, NJ 08016  
Attention: Fiscal Manager of Operations

T N T Commonwealth Construction  
460 Faraday Avenue  
Jackson, NJ 08527  
Attention: Fiscal Manager of Operations

Thomas J. O'Beirne & Company, Inc.  
37 Woodland Road  
Roseland, NJ 07068  
Attention: Fiscal Manager of Operations

Celtic Concepts  
P.O. Box 233  
Monmouth Beach, NJ 07750  
Attention: Fiscal Manager of Operations

**Board of Public Utilities**

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**Division of Reliability & Security**

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NJ Department of Law and Public Safety  
Richard J. Hughes Justice Complex  
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Trenton, NJ 08625  
[matko.ilic@law.njoag.gov](mailto:matko.ilic@law.njoag.gov)

**APPENDIX A**

In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq.

**Docket Nos. AS24020077K et al.**

Facility Damaged	BPU Docket #	Case #	Type of Violation	Penalty	Alleged Violator	Violation Date	Location	Payment Date
Non-Damage	AS24020077K	NOC2014-0002	Did not properly mark out	\$3,000	Transcontinental Gas Pipeline	04/07/2014	Ewing, NJ	08/11/2015
Non-Damage	AS24020078K	NOC2014-0079	Did not properly mark out	\$1,000	Verizon	09/25/2014	Holmdel, NJ	10/21/2015
GAS	GS24020079K	GOC2015-1326	Did not have a valid mark	\$3,000	Northstar Demolition	09/01/2015	Hamilton Twp., NJ	06/15/2016
GAS	GS24020080K	GOC2015-1272	Did not have a valid mark out	\$3,000	James Conner Plumbing	09/03/2015	Moorestown, NJ	05/23/2016
GAS	GS24020081K	GOC2015-1398	Did not have a valid mark out	\$3,000	Fort Lee Parking Authority	09/16/2015	Fort Lee, NJ	07/26/2016
WATER	WS24020082K	WOC2015-0059	Did not properly mark out	\$2,000	Parsippany Troy Hills Water Dept.	10/06/2015	Parsippany Troy Hills, NJ	10/31/2016
GAS	GS24020083K	GOC2015-1514	Did not have a valid mark out	\$3,000	Elmwood Services, Inc.	10/16/2015	Union City, NJ	01/14/2019
GAS	GS24020084K	GOC2015-1599	Did not have a valid mark out	\$3,000	Twin Pines Waste Disposal	10/27/2015	Loveladies, NJ	08/20/2019
GAS	GS24020085K	GOC2015-1912	Did not properly mark out	\$3,000	NJ Natural Gas	12/21/2015	Brick, NJ	09/22/2023
TELCO	TS24020086K	TOC2016-0020	Did not properly mark out	\$3,000	Verizon	02/09/2016	Keyport, NJ	01/25/2017
GAS	GS24020087K	GOC2016-0284	Failure to Maintain/Preserve mark out	\$3,000	L. Feriozzi Concrete	03/29/2016	Margate City, NJ	11/16/2017
GAS	GS24020088K	GOC2016-0297	Did not have valid mark out	\$3,000	Irvington Dept. of Public Works	04/01/2016	Irvington, NJ	03/26/2019
GAS	GS24020089K	GOC2016-0298	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.	04/01/2016	Plainsboro Center, NJ	11/29/2023
GAS	GS24020090K	GOC2016-0329	Did not have a valid mark out	\$3,000	Underground Utilities Corp.	04/07/2016	Jackson, NJ	08/29/2018
GAS	GS24020091K	GOC2016-0376	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.	04/12/2016	Edison, NJ	11/29/2023
Non-Damage	AS24020093K	NOC2016-0032	Did not properly mark out	\$3,000	Verizon	05/06/2016	Washington Twsp., NJ	11/28/2016
Electric	ES24020094K	EOC2016-0081	Failure to hand dig	\$2,500	Public Service Electric & Gas Co.	05/18/2016	Clifton, NJ	11/15/2023
GAS	GS24020095K	GOC2016-0707	Failure to use reasonable Care	\$3,000	Kemsco Const. & Equip. Company	06/22/2016	Elizabeth, NJ	12/30/2023
ELECTRIC	ES24020096K	EOC2016-0082	Did not properly mark out	\$2,000	Public Service Electric & Gas Co.	06/25/2016	Orange, NJ	08/10/2023
GAS	GS24020097K	GOC2016-0939	Did not have a valid mark out	\$3,000	Margate Public Works	07/13/2016	Margate City, NJ	12/30/2016
GAS	GS24020098K	GOC2016-0886	Failure to use reasonable care	\$3,000	Mazzara Excavation	07/20/2016	Wrightstown, NJ	08/24/2018
GAS	GS24020099K	GOC2016-0890	Did not have a valid mark out	\$3,000	Hopewell Public Works	07/21/2016	Hopewell, NJ	06/22/2018
GAS	GS24020100K	GOC2016-1337	Failure to hand dig and locate	\$3,000	Public Service Electric & Gas Co.	09/17/2016	Cherry Hill, NJ	12/27/2023

**APPENDIX A**

In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq.

Docket Nos. AS24020077K et al.

Facility Damaged	BPU Docket #	One Call Case #	Type of Violation	Penalty	Alleged Violator	Violation Date	Location	Payment Date
GAS	GS24020101K	GOC2016-1415	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.	10/05/2016	Lyndhurst, NJ	09/22/2023
GAS	GS24020102K	GOC2016-1570	Failure to use reasonable care	\$3,000	Henkels & McCoy	10/15/2016	Audubon, NJ	03/06/2017
GAS	GS24020103K	GOC2016-1582	Expired mark out	\$3,000	T N T Commonwealth Construction	10/19/2016	Camden, NJ	07/12/2019
GAS	GS16040358K	GOC2015-1529	Did not have a valid mark out	\$3,000	Thomas J. O'Beirne & Co., Inc.	10/01/2015	Toms River, NJ	03/24/2016
GAS	GS18111229K	GOC2015-1587	Did not have a valid mark out	\$3,000	Celtic Concepts, Inc.	10/19/2015	Eatontown, NJ	02/13/2017
Total Cases: 28 Total Penalties: \$79,500								