



Agenda Date: 5/31/2017  
Agenda Item: VIA

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314  
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. GS17030264K, et. al.  
(see attached appendix)

**Parties of Record:**

- Anthony Marchione**, Tomar Mechanical Contractor
- Gabriel Halpern**, Knollwood Garden Apartments
- Paul Booth Jr.**, Booth Mechanical Inc.
- Nick Depoto**, Elizabethtown Gas
- Michael Donohue**, PSE&G
- Sylvia Del Vecchio**, Verizon
- John Gonnella**, SGC Construction LLC
- Lorenza Redaelli**, Fabco Inc.
- Paul Alper**, Jersey Construction
- Brooke Mackie**, All Surface Asphalt and Paving Inc.
- Anthony E. Recchia, Jr.**, Hutton Construction LLC
- Gregg Rogers**, Garden Irrigation
- Maria Diaz**, New Jersey Natural Gas
- James Spano**, Spano & Son General Contracting LLC
- Linda Castillo**, JADS Construction
- Dennis Moore**, Ameridrill, Inc.
- Ralph Serpe**, Kemsco Construction & Equipment Co.
- Scott Woodfield**, Union Paving & Construction Co., Inc.
- George Zatrinski**, George Zatrinski Excavating
- Kevin Sansalone**, Pro Concrete & Masonry
- Rob Finnegan**, Perna Finnegan
- Spiros Vlahos**, Excel Construction Co., LLC
- Mark Thomas**, M.T. Tree Service, Inc.
- Andrew Mayernick Jr.**, Amec Electric, LLC
- Mark Reynolds**, Reynolds Landscaping, Inc.
- Carlos Duarte**, Dumac, Inc.
- Frank Morris**, Frank A. Morris Construction, Inc.
- Ernest Vaughan**, Vaughan Construction & Excavation, 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 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 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 **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.

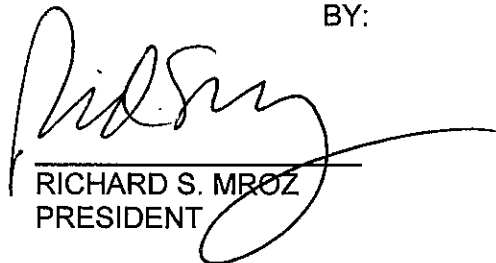
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Underground Facility Protection Act in connection with the above-referenced alleged violations of the Act. 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.

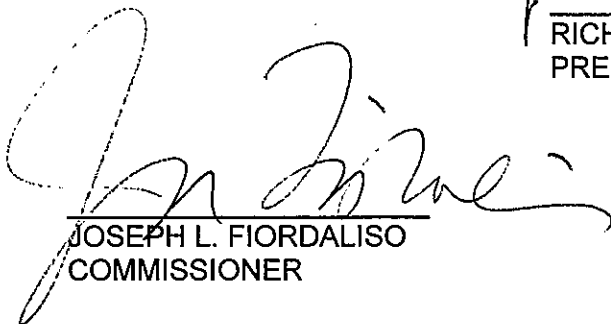
This Order shall be effective on June 10, 2017.

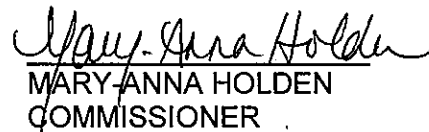
**NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.**

DATED: 5/31/17

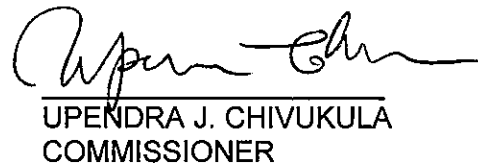
BOARD OF PUBLIC UTILITIES  
BY:

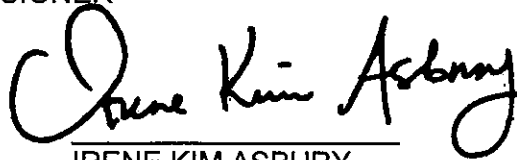
  
RICHARD S. MROZ  
PRESIDENT

  
JOSEPH L. FIORDALISO  
COMMISSIONER

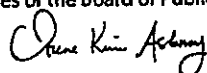
  
MARY ANNA HOLDEN  
COMMISSIONER

  
DIANNE SOLOMON  
COMMISSIONER

  
UPENDRA J. CHIVUKULA  
COMMISSIONER

ATTEST:   
IRENE KIM ASBURY  
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. GS17030264K et. al. (see attached appendix)**

**SERVICE LIST**

Anthony Marchione  
Tomar Mechanical Contractor  
133 East Lavender Rd.  
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Anthony E. Recchia, Jr.  
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41 Village Park Road  
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Morganville, NJ 07751

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42 North Lippincott Avenue  
Maple Shade, NJ 08052

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Union, NJ 07083

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Mountainside, NJ 07092

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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 VIA 2017

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS17030264K	GOC2016-0460	Did not have a valid markout	\$3,000		Tomar Mechanical Contractor	4/29/2016	Corson St., Middle Township	2/14/2016
Damage, Gas	GS17030265K	GOC2016-1189	Did not have a valid markout	\$3,000		Knollwood Garden Apartments	8/29/2016	Knollwood Dr., Middletown	2/2/2017
Damage, Gas	GS17030266K	GOC2016-1147	Failure to use reasonable care	\$3,000		Booth Mechanical Inc.	8/31/2016	US 130, Cinnaminson	2/14/2017
Damage, Gas	GS17030267K	GOC2016-0540	Did not properly mark out	\$3,000	Elizabethtown Gas		5/24/2016	Breace Ave., Perth Amboy	1/10/2017
Damage, Gas	GS17030268K	GOC2016-1273	Did not properly mark out	\$3,000	Elizabethtown Gas		9/16/2016	N. 17th Ave., Kenilworth	1/10/2017
Damage, Gas	GS17030269K	GOC2016-0628	Did not properly mark out	\$3,000	Elizabethtown Gas		6/6/2016	N. Broad St., Hillside	1/10/2017
Damage, Gas	GS17030270K	GOC2016-0816	Did not properly mark out	\$3,000	Elizabethtown Gas		6/30/2016	Burnham Dr., Fords	1/10/2017
Damage, Gas	GS17030257K	GOC2016-1275	Did not properly mark out	\$3,000	Elizabethtown Gas		9/17/2016	Douglas Rd., Roselle	1/10/2017
Damage, Gas	GS17030258K	GOC2015-1870	Did not properly mark out	\$3,000	Elizabethtown Gas		12/23/2015	Diaz St., Woodbridge	1/10/2017
Damage, Gas	GS17030259K	GOC2016-1228	Did not properly mark out	\$3,000	Elizabethtown Gas		9/13/2016	Passaic Ave., Kenilworth	1/10/2017
Damage, Gas	GS17030260K	GOC2016-0706	Did not properly mark out	\$3,000	Elizabethtown Gas		6/20/2016	Second St., Elizabeth	1/10/2017
Damage, Gas	GS17030261K	GOC2016-1227	Did not properly mark out	\$3,000	Elizabethtown Gas		9/13/2016	Union St., Rahway	1/10/2017
Damage, Gas	GS17030262K	GOC2016-0820	Did not properly mark out	\$3,000	Elizabethtown Gas		7/8/2016	E. Jersey St., Elizabeth	1/10/2017
Damage, Gas	GS17030263K	GOC2016-1095	Did not properly mark out	\$3,000	Elizabethtown Gas		8/25/2016	Bloomingdale Ave., Cranford	1/10/2017
Damage, Gas	GS17040359K	GOC2016-0703	Did not properly mark out	\$3,000	Elizabethtown Gas		6/16/2016	Stuyvesant Ave., Union	1/10/2017
Damage, Gas	GS17040360K	GOC2016-0818	Did not properly mark out	\$3,000	Elizabethtown Gas		7/1/2016	Sheridan Ave., Roselle	1/10/2017
Damage, Gas	GS17040361K	GOC2016-1274	Did not properly mark out	\$3,000	Elizabethtown Gas		9/20/2016	Richfield Ave., Kenilworth	1/10/2017
Damage, Gas	GS17040363K	GOC2016-1299	Did not properly mark out	\$3,000	Elizabethtown Gas		9/21/2016	North Ave. E., Elizabeth	1/10/2017
Damage, Gas	GS17040364K	GOC2015-1609	Did not properly mark out	\$3,000	Elizabethtown Gas		10/29/2016	Ginesi Dr., Clark	1/10/2017
Damage, Gas	GS17040365K	GOC2015-0213	Did not properly mark out	\$3,000	PSE&G		3/18/2015	Lemoine Ave., Fort Lee	2/8/2017
Damage, Gas	GS17040366K	GOC2016-1068	Did not properly mark out	\$3,000	Elizabethtown Gas		8/17/2016	Smith St., Perth Amboy	1/10/2017
Damage, Gas	GS17040367K	GOC2016-1120	Did not properly mark out	\$3,000	Elizabethtown Gas		8/26/2016	N. Wood Ave., Linden	1/10/2017
Damage, Gas	GS17040368K	GOC2016-0461	Did not properly mark out	\$3,000	Elizabethtown Gas		5/6/2016	Stuyvesant Ave., Union	1/10/2017
Damage, Gas	GS17040369K	GOC2016-1352	Did not properly mark out	\$3,000	Elizabethtown Gas		9/30/2016	Walnut St., Westfield	1/10/2017
Damage, Telephone	TS17040370K	TOC2016-0026	Did not properly mark out	\$3,000	Verizon		5/4/2016	74th St., North Bergen	1/6/2017
Damage, Gas	GS17040362K	GOC2016-0884	Did not properly mark out	\$3,000	PSE&G		7/20/2016	Coal Ave., Morristown	1/27/2017
Damage, Gas	GS17040376K	GOC2014-1256	Did not have a valid markout	\$3,000		SGC Construction LLC	12/2/2014	Briarwood Rd., Florham Park	2/1/2017

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 VIA 2017

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS17040377K	GOC2016-1027	Did not have a valid markout	\$3,000		Fabco Inc.	8/1/2016	Yellowbrook Rd., Howell	2/3/2017
Damage, Gas	GS17040378K	GOC2016-0366	Failure to hand dig and locate	\$3,000		Jersey Construction	4/19/2016	W. Browning Rd., Bellmawr	2/7/2017
Damage, Gas	GS17040379K	GOC2016-0641	Did not properly mark out	\$3,000	PSE&G		6/7/2016	Terhune Ave., Passaic	2/2/2017
Damage, Gas	GS17040380K	GOC2016-0328	Failure to use reasonable care	\$3,000		All Surface Asphalt and Paving Inc.	4/7/2016	Trenton Ave., Point Pleasant Beach	2/10/2017
Damage, Gas	GS17040381K	GOC2016-0174	Failure to use reasonable care	\$3,000		Hutton Construction LLC	3/9/2016	Runnymede Rd., Chatham	2/6/2017
Damage, Gas	GS17040382K	GOC2016-0807	Failure to use reasonable care	\$3,000		Garden Irrigation	6/30/2016	Jeryl St., Eatontown	12/19/2016
Damage, Gas	GS17040383K	GOC2016-0392	Did not properly mark out	\$3,000	Elizabethtown Gas		4/28/2016	Blake Ave., Cranford	2/16/2017
Damage, Gas	GS17040384K	GOC2016-0486	Did not properly mark out	\$3,000	Elizabethtown Gas		5/16/2016	Watson Ave., Perth Amboy	2/16/2017
Damage, Gas	GS17040385K	GOC2016-0303	Did not properly mark out	\$3,000	Elizabethtown Gas		4/15/2016	Bradford Rd., Edison	2/16/2017
Damage, Gas	GS17040404K	GOC2016-0393	Did not properly mark out	\$3,000	Elizabethtown Gas		4/29/2016	Chestnut Ave., Hillside	2/16/2017
Damage, Gas	GS17040405K	GOC2016-0609	Did not properly mark out	\$3,000	New Jersey Natural Gas		5/24/2016	Rainbow Trail, Denville	2/22/2017
Damage, Gas	GS17040406K	GOC2016-0332	Did not properly mark out	\$3,000	New Jersey Natural Gas		4/13/2016	S. Main St., Wharton	2/22/2017
Damage, Gas	GS17040407K	GOC2016-1089	Failure to use reasonable care	\$3,000		Jersey Construction	8/17/2016	Haddon Ave., Camden	2/21/2017
Damage, Gas	GS17040408K	GOC2016-1108	Failure to use reasonable care	\$3,000		General Contracting LLC	8/16/2016	Lynn Pl., Pequannock	2/21/2017
Damage, Gas	GS17040409K	COC2016-0158	Failure to use reasonable care	\$3,000		JADS Construction	6/28/2016	Hedgewood Rd., Howell	2/24/2017
Damage, Gas	GS17040410K	GOC2016-0845	Did not have a valid markout	\$3,000		Ameridrill, Inc.	7/13/2016	Beechwood Ave., Cherry Hill	2/27/2017
Damage, Gas	GS17040411K	GOC2016-1022	Failure to use reasonable care	\$3,000		Kemsco Construction & Equipment Co., Inc.	8/9/2016	Lasalle Rd., Montclair	2/22/2017
Damage, Gas	GS17040412K	GOC2015-1570	Did not properly mark out	\$3,000	PSE&G		10/30/2016	Lenox Ave., South Orange	2/21/2017
Damage, Gas	GS17040413K	GOC2016-0310	Failure to hand dig and locate	\$3,000		Union Paving and Construction Co., Inc.	4/12/2016	Pulaski St., Bayonne	2/23/2017
Damage, Gas	GS17040414K	GOC2016-0853	Failure to hand dig and locate	\$3,000		George Zatrinski Excavating	7/6/2016	Howard Dr., Lakewood	2/24/2017
Damage, Gas	GS17040415K	GOC2016-0412	Did not have a valid markout	\$3,000		Pro Concrete and Masonry	4/19/2016	Route 73, Voorhees	2/24/2017
Damage, Gas	GS17040416K	GOC2016-0867	Failure to use reasonable care	\$3,000		Perna Finnegan	7/14/2016	Newbury Rd., Howell	2/23/2017
Damage, Gas	ES17040417K	GOC2016-0859	Failure to use reasonable care	\$3,000		Excel Construction Co., LLC	7/11/2016	Jerseyville Ave., Freehold	2/24/2017
Damage, Gas	GS17040418K	GOC2016-0865	Did not have a valid markout	\$3,000		M.T. Tree Service Inc.	7/14/2016	Weston Ct., Marlboro	1/6/2017
Damage, Gas	GS17040419K	GOC2016-1302	Did not have a valid markout	\$3,000		Amec Electric, LLC	9/21/2016	Lake Ave., Metuchen	12/30/2016
Damage, Gas	GS17040420K	GOC2016-1315	Did not have a valid markout	\$3,000		Reynolds Landscaping, Inc.	9/12/2016	Seaview Ave., Barnegat Light	1/5/2017
Damage, Gas	GS17040421K	GOC2016-0855	Did not have a valid markout	\$3,000		Dumac, Inc.	7/7/2016	Brick Blvd., Brick	1/9/2017



IN THE MATTER OF:  
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N.J.S.A. 48:2-73 ET SEQ. ORDER ACCEPTING SETTLEMENTS  
Bureau of One Call - Settlements -APPENDIX- May VIA 2017

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS17040422K	GOC2016-1165	Did not have a valid markout	\$3,000		Frank A. Morris Construction, Inc.	8/17/2016	Philadelphia Blvd., Sea Girt	1/15/2017
Damage, Gas	GS17040423K	GOC2016-0444	Did not have a valid markout	\$3,000		Construction & Excavation, Inc.	4/27/2016	Newman Springs Rd., Lincroft	1/9/2017
Damage, Gas	GS17040424K	GOC2015-0839	Did not properly mark out	\$3,000	New Jersey Natural Gas		6/22/2015	Sunset Dr. N., Seaside Heights	2/22/2017
Damage, Gas	GS17040425K	GOC2015-1309	Did not properly mark out	\$3,000	New Jersey Natural Gas		9/2/2015	Parker Rd., Tuckerton	2/22/2017
Damage, Gas	GS17020104K	GOC2015-0053	Did not properly mark out	\$3,000	PSE&G		1/20/2015	Muller Pl., Little Falls	10/5/2015
Damage, Gas	GS17020103K	GOC2015-0125	Did not properly mark out	\$3,000	PSE&G		2/23/2015	Hope Ave., Passaic	10/12/2015
Damage, Gas	GS17020102K	GOC2015-0131	Did not properly mark out	\$3,000	PSE&G		2/26/2015	Highway 1, South Brunswick	10/8/2015
Damage, Gas	GS17020101K	GOC2015-0226	Did not properly mark out	\$3,000	PSE&G		3/30/2015	W. Main St., Mendham	11/16/2015
Damage, Gas	GS17020100K	GOC2015-0298	Did not properly mark out	\$3,000	PSE&G		4/7/2015	Beech St., Kearny	10/7/2015
Damage, Gas	GS17020099K	GOC2015-0327	Did not properly mark out	\$3,000	PSE&G		4/6/2015	Beech St., Kearny	10/7/2015
Damage, Gas	GS17020098K	GOC2015-1550	Did not properly mark out	\$3,000	PSE&G		10/7/2015	W. Lawn Rd., Livingston	8/25/2016
Damage, Gas	GS17020089K	GOC2015-1561	Did not properly mark out	\$3,000	PSE&G		10/17/2015	Greglawn Dr., Clifton	5/17/2016
Damage, Gas	GS17020088K	GOC2016-0025	Did not properly mark out	\$3,000	PSE&G		1/20/2016	New Bridge Rd., New Milford	7/8/2016
Damage, Gas	GS17020086K	GOC2016-0238	Did not properly mark out	\$3,000	PSE&G		3/29/2016	Evergreen St., Waldwick	9/7/2016
Damage, Gas	GS17020085K	GOC2016-0241	Did not properly mark out	\$3,000	PSE&G		3/31/2016	Clements Bridge Rd., Barrington	9/7/2016
Damage, Gas	GS17020084K	GOC2016-0246	Did not properly mark out	\$3,000	PSE&G		3/31/2016	Fox Hedge Rd., Saddle River	9/7/2016
Total	70			\$210,000					