

STATE OF NEW JERSEY

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 NOS. TS18050531K

Parties of Record:1

Stacy A. Mitchell, South Jersey Gas Company Nick Depoto, Elizabethtown Gas Michael Donahue, Public Service Electric & Gas Wes Covely, Pioneer Pipe Contractors, Inc. Sylvia DelVeccio, Verizon Nick Pinto, New Jersey American Water Laura Puszcz. Evesham Municipal Utilities Henrique Santos, Mira Construction Jason Peckham, Allshore Plumbing Heating & Cooling Mohan Myneni, Myneni, Inc. Betty Ann Bun, Henkles & McKoy Richard McIntyre, Assunca Bros. Inc. Rory Senseman, South State, Inc., General Contractors John Facces, Quality Electrical Construction Co. Paul Leo, Green Park Co., Inc. Maurizio Pepe, Pepe Paving Eric Lawson, Manchester Septic & Excavating Cuntis Stoclen, J. Gatarz & Sons

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

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.

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 <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 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 July 2, 2018.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

DATED: 6/22/18

BOARD OF PUBLIC UTILITIES

BY:

OSEPH L. FORDALISO

#RESIDENT

MARY-ANNA HOLDEN OLDEN COMMISSIONER

DIANNE SOLOMON COMMISSIONER

UPENDRA J. CHIVUKULA

COMMISSIONER

ATTEST:

IDA CAMACHO-WELCH

SECRETARY

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

Cuntis Stoclen
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Monroe, NJ 08831

Richard McIntyre Assunca Bros. Inc. 29 Wood Avenue Edison, NJ 08820

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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- June 20 VIA 2018

7		ements - APPENDIX						
BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator -	Excavator	Violation Date	Description/Location	Payment Received
TS18050531K	NOC2017-0085	Did not properly mark out	\$2,000	Evesham MUA		11/14/2017	Blueberry Court, Evesham	1/31/2018
WS1805532K	NOC2017-0084	Did not properly mark out	\$3,000	NJ American Water		11/16/2017	Main Street, Peapack Gladstone	1/31/2018
TS18050533K	NOC2017-0083	Did not properly mark out	\$3,000	Verizon		11/11/2017	Howard Ave., East Greenwich	1/30/2018
GS18050553K	NOC2017-0082	Did not properly mark out	\$3,000	Verizon		12/02/2017	Red Rock Trail, Saddle River	1/30/2018
TS18050535K	NOC2017-0081	Did not properly mark out	\$3,000	Verizon .	,	12/02/2017	Railroad Ave., Ridgefield	1/30/2018
ES18050536K	NOC2018-0010	Did not properly mark out	\$3,000	PSE&G		11/14/2017	Colony Court, Franklin	12/28/2017
ES18050537K	NOC2017-0080	Did not properly mark out	\$3,000	PSE&G		11/28/2017	Republic Drive, Monroe Twsp	12/28/2017
GS18050538K	NOC2017-0079	Did not properly mark out	\$3,000	PSEG		12/05/2017	Old New Brunswick Rd. Piscataway	12/28/2017
ES18050539K	NOC2017-0078	Did not properly mark out	\$3,000	PSEG		11/28/2017	Anthem Street, Monroe	12/28/2017
GS18050540K	NOC2017-0077	Did not properly mark out	\$3,000	E'Town Gas		12/07/2017	Fox Chase Drive, Readington	2/15/2018
TS18050541K	NOC2017-0076	Did not properly mark out	\$2,000	Evesham MUA		11/14/2017	Magnolia Court, Evesham	1/31/2018
TS18050542K	NOC2018-0009	Did not properly mark out	\$3,000	Verizon	-	11/29/17	Fomalhaut Ave., Washington	2/26/2018
TS18050544K	NOC2017-0065	Did not properly mark out	\$3,000	Verizon		12/06/2017	Railroad Ave., Ridgefield	1/30/2018
TS18050545K	NOC2017-0066	Did not properly mark out	\$3,000	Verizon	_	12/06/2017	Arnold Ave., Pt. Pleasant	1/30/2018
GS18050546K	NOC2017-0067	Did not properly mark out	\$3,000	Verizon		12/02/2017	Red Rock Trail, Saddle River	1/30/2018
TS18050547K	NOC2017-0068	Did not properly mark out	\$3,000	Verizon		12/19/2017	Howard Ave., East Greenwich	1/30/2018
	NOC2017-0070	Did not properly mark out	\$3,000	PSE&G		12/12/2017	Railroad Ave., Ridgefield	1/18/2018
GS18050548K	NOC2017-0064	Did not properly mark out				11/15/17	Evans Ave., Piscataway	12/27/2017
ES18050550K	NOC2017-0069	Dig not properly mark out	\$3,000	PSE&G		12/11/2017	Stony Brook Dr., Warren	12/27/2017
ES18050551K	NOC2017-0071	Did not properly mark out	\$3,000	PSE&G		12/05/2017	Ward Avenue, Westwood	02/13/2018
	NOOLO 11 OO12		\$3,000	PSE&G		11/15/2017	Evans Ave., Piscataway	12/27/2017
TS18050565K	NOC2017-0024	Did not properly mark out	\$3,000	Verizon		07/07/2017	State Rte. 34, Mariboro	09/22/2017
TS18050564K	NCC2017-0023 1		\$3,000	Verizon		07/06/2017	State Rte. 34, Marlboro	03/27/2017
TS18050562K			\$3,000	Verizon		07/06/2017	State Rte. 34, Mariboro	09/22/2017
TS18050561K	18676701740071 1					07/06/207	State Rte. 34, Mariboro	09/22/2017
TS18050560K	NUL7017-UU20 1		\$3,000	Verizon		06/29/2017	State Rte. 34, Marlboro	09/22/2017
GS18050558K	11002011-0013 1	Did not have valid mark out	\$1,000		Mira Construction	05/08/2017	State Rte. 35, South Amboy	07/10/2017
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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- June 20 VIA 2018

Damage, GS1600957K GC2016-1919 Failure to use S5,000 Assurace Pleating-Cooling GS1600958K GS2016-1919 Failure to use S5,000 Assurace Bros. Inc. GS020216 Upons Ave., Invitigion 100 GS1600958K GC2017-2022 GM and not at GS1600958K GC2017-2022 GM	Damage Type	BPU Dkt No.	One Call Case	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage Sci 18000589K GC2017-012 Failure to use resonable care S3,000 Assuraca Bios. Inc. G80502016 Jyons Ave, Invision 110 Top General Plance Gallery Gall		GS18050557K	GOC2016-1132		\$3,000			08/08/2016		08/14/2017
Case Contractions Contractions	Damage,	GS18050563K	GOC2016-1019		\$3,000		Assuncao Bros. Inc.,	08/05/2016	Lyons Ave., Irvington	10/19/2017
Damage GS1805059K GCC2017-0928 mark out \$3,000 Guality Electrical Canstruction Cq. Cansingtination Cq. Cansingtinati	1.	GS18050563K	GOC2017-0272	ì	\$3,000		South State Inc.	03/27/2017		03/08/2018
Damage, GS 180505546 GC2017-0345 Ega Avenue, Jersey City	1	GS18050553K	GOC2017-0828		\$3,000	·		07/03/2017	· · · · · · · · · · · · · · · · · · ·	03/09/2018
Case S1600,004 G0C2011-1244 Gare S3,000 Green Park Co., G9042015 Lancaster Rd., Union G5K Gas G518050594K G0C2015-1254 Gas G518050594K G0C2017-0171 Failure to use S3,000 Ploneer Pipe Contractors, inc. G207/2017 Kirkwood Road, Glibbeboro G7 G7 G7 G7 G7 G7 G7 G	1	GS18050556K	GOC2016-0368		\$3,000			04/20/2016	Ege Avenue, Jersey City	01/30/2018
Care Park Co. Contractors Care Park Co. Contractors Care Park Co. Contractors Care Ca	1.	GS18050554K			\$3,000		Henkels & McCoy	04/07/2017		05/10/2018
Case	ŀ	GS18050555K	GOC2015-1254		\$3,000			09/04/2015	Lancaster Rd., Union	05/01/2018
Damage GS16000595N For assonable care Ploneer Pipe Contractors Diff6/2016 Plymouth Place, Ocean City Ocean		GS18050594K	GOC2017-0171					02/22/2017	229 Winding Way, Stratford	05/15/2018
Damage, GS18050596K GCC2016-085 GCC2017-0118 GS18050597K GCC2017-0118 Gas GS18050597K GCC2017-058 Gas GS18050597K GCC2017-058 Gas GS18050599K GCC2017-058 Gas GS18050599K GCC2017-058 GCC2017-	Damage	GS18050595K	GOC2017-0111	1	\$3,000			02/07/2017	Kirkwood Road, Gibbsbero	03/14/2018
Gas	1	GS18050596K	0002010-1000	1 ' ' '					Plymouth Place,	05/16/2018
Gas	1.	GS18050597K	ICCCC0017 0110				Pioneer Pipe Contractors	02/10/2017	Asbury Avenue, Ocean City	05/15/2018
Damage, mark out Excavating	Gas		GOC2017-0365	out	\$3,000		Pepe Paving	05/30/2017	North Drive, Brick Twsp	05/14/2018
Telepho mark out 0/1/4/2/16 Brunswick 04/	1	AS18050599K						11/16/2016	Linda Drive, Jackson	05/01/2018
	1 -	TS18050600K	1	1	\$2,000		J. Gatarz & Sons	07/14/2016		04/27/2018
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Total 41 cases \$116,000.00	Total	41 cases	\$116,000.	00	•		<u> </u>			l