



Agenda Date: 10/29/18

Agenda Item: VIB

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)	FINAL ORDER OF PENALTY
UNDERGROUND FACILITY PROTECTION ACT,)	ASSESSMENT
N.J.S.A. 48:2-73 to -91, BY FULLERTON LANDSCAPE)	
ARCHITECTS)	DOCKET NO. CS18060650K

Party of Record:

Fullerton Landscape Architects

BY THE BOARD:

The Board of Public Utilities ("Board") has jurisdiction to oversee and enforce the provisions of the Underground Facility Protection Act ("Act") pursuant to the provisions set forth in N.J.S.A. 48:2-73 to -91. In this Order, the Board reviews the issuance of a Final Order of Penalty Assessment ("FOPA") pursuant to N.J.A.C. 14:2-6.6 and N.J.A.C. 14:7-2.4 regarding Fullerton Landscape Architects ("Respondent").

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).

On or about June 2, 2016, damage occurred to an underground facility operated by Comcast. Comcast investigated and advised Board Staff that Fullerton Landscapes Architects was the excavator at the date and time that the damage occurred. On August 9, 2016, Board Staff contacted the Respondent and informed Respondent of the date and location of the alleged violation. By letter dated August 18, 2016, the Company responded to Staff.

Subsequently, pursuant to N.J.A.C. 14:2-6.4 and N.J.A.C. 14:7-2.2, on April 13, 2017, Board Staff issued a Notice of Probable Violation ("NOPV") to the Respondent, which included a blank Answering Certification Form. The NOPV was served via regular and Certified Mail to the Respondent. The NOPV advised the Respondent that failure to file an Answering Certification may result in the issuance of a FOPA, as required by N.J.A.C. 14:2-6.4(b)(5)(i) and N.J.A.C. 14:7-2.2(b)(5)(i). The Respondent signed and returned the certified mail receipt. (According to the receipt, the certified mail was signed for and delivered to the Respondent on April 27, 2017. (See Exhibit A). The regular mail was not returned. (See Exhibit B). Pursuant to N.J.A.C. 14:2-6.5(a) and N.J.A.C. 14:7-2.3(a), Respondent must file an answering Certification within twenty-one (21) days of receiving the NOPV. More than twenty-one (21) days has elapsed since the Respondent signed for the NOPV via certified mail. To date, the Respondent has not filed the Answering Certification with the Board or with Board Staff. (See Exhibit B).

As the Company has failed to file an Answering Certification, the Respondent is deemed to be in default pursuant to N.J.A.C. 14:2-6.6(a) and N.J.A.C. 14:7-2.4(a). Pursuant to N.J.A.C. 14:2-6.6(b) and N.J.A.C. 14:7-2.4(b), Board Staff has presented the NOPV to the Board and has requested that the Board issue a FOPA.

Pursuant to N.J.A.C. 14:2-6.6(d) and N.J.A.C. 14:7-2.4(d), the Board is not bound by any settlement offers made by Board Staff upon issuance of a NOPV and may order the payment of a civil administrative penalty up to the maximum permitted by law. In determining the appropriate penalty amount to be assessed, the Board must consider the factors enumerated in N.J.A.C. 14:2-6.2(c) and N.J.A.C. 14:7-2.7, including but not limited to the nature, circumstances and gravity of the violation, the degree of the violator's culpability and any other factors justice may require. The Board, having had an opportunity to review the record in this matter, **HEREBY FINDS** the NOPV issued by Board Staff to be reasonable and in the public interest. The Board, having reviewed the NOPV, **HEREBY FINDS** that an appropriate penalty for this matter is \$6,000.00 as Respondent was provided with an opportunity to challenge the alleged violation, failed to file an Answering Certification, damaged an underground facility operated by Comcast, admitted to being on site, and did not have a valid mark-out as Respondent began work prior to its approved start date. The Board **HEREBY ISSUES** this Final Order of Penalty Assessment and **ORDERS** that the Respondent shall be assessed the Civil

Administrative Penalty of \$6,000.00. The Board **FURTHER ORDERS** that the Respondent shall pay the Civil Administrative Penalty as set forth in this Order no later than Monday, November 19, 2018.

Payment must be made out to the **TREASURER, STATE OF NEW JERSEY**

Sent to: Mike Greco, Acting Chief Fiscal Officer
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625
Attn: One-Call Enforcement

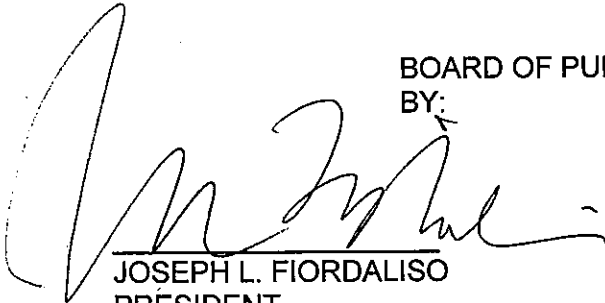
*You must include a copy of this order with your check.

If the Respondent fails to make the required payment by Monday, November 19, 2018, the Board **HEREBY DIRECTS** Staff to docket this Order against Respondent as a Judgment with the Superior Court and take such other appropriate action consistent with the Penalty Enforcement Act, N.J.S.A. 2A:58-10.

This Order shall be effective on November 8, 2018.

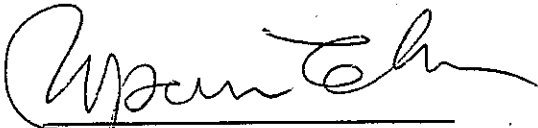
NO FURTHER ACTION BY THE RESPONDENT IS REQUIRED.

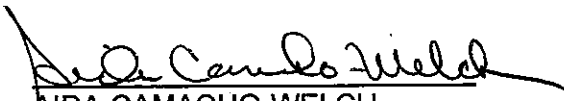
DATED: 10/29/18



BOARD OF PUBLIC UTILITIES
BY:

JOSEPH L. FIORDALISO
PRESIDENT


MARY-ANNA HOLDEN
COMMISSIONER
DIANNE SOLOMON
COMMISSIONER
UPENDRA J. CHIVUKULA
COMMISSIONER
ROBERT M. GORDON
COMMISSIONER

ATTEST: 
AIDA CAMACHO-WELCH
SECRETARY

**IN THE MATTER OF ALLEGED VIOLATIONS OF THE UNDERGROUND FACILITY
PROTECTION ACT, N.J.S.A. 48:2-73 to -91, BY FULLERTON LANDSCAPE ARCHITECTS**

DOCKET NO. CS18060650K

SERVICE LIST

Douglas Fullerton
Fullerton Landscape Architects
12 Chester Terrace
Succasunna, NJ 07876

James Giuliano, Director
Division of Reliability & Security
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
james.giuliano@bpu.nj.gov

Megan Lupo, Esq.
Counsel's Office
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
megan.lupo@bpu.nj.gov

Renee Greenberg, DAG
Division of Law and Public Safety
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029
renee.greenberg@law.njoag.gov

EXHIBIT A

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

FULLERTON LANDSCAPES
12 CHESLER TERRACE
SUCCASUNNA, NJ
07076
2016-0144



9590 9402 1554 5362 0435 36

PSN 7530-02-000-9053

7011 2970 0002 8352 5176

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
x *Silva* Addressee

B. Received by (Printed Name) C. Date of Delivery
Silvia Antena 4/27/17

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
- | | |
|---|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Registered Mail™ | |
| <input type="checkbox"/> Registered Mail Restricted Delivery | |
| <input type="checkbox"/> Return Receipt for Merchandise | |
| <input type="checkbox"/> Signature Confirmation™ | |
| <input type="checkbox"/> Signature Confirmation Restricted Delivery | |

EXHIBIT B

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

CERTIFICATION OF ANN LANG

In the Matter of:

Fullerton Landscape Architects
12 Chester Terrace
Succasunna, NJ 07876

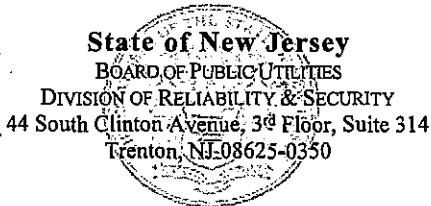
I, Ann Lang, hereby certifies and says:

1. I am an Environmental Engineer at the New Jersey Board of Public Utilities and have held that position at all times relevant to this Certification and I have reviewed all of the documents in this matter.
2. On June 2, 2016, damage occurred to an underground facility operated by COMCAST at 73 Glenmere Dr., Chatham, NJ .
3. After being notified of the damage, Staff of the Board of Public Utilities ("Board Staff") investigated the incident, including sending letters of inquiry ("LOI") to both the operator, Comcast, and the excavator, Fullerton Landscape Architects. By letter dated August 18, 2016, Fullerton Landscape Architects responded to Board Staff's LOI. Comcast also responded to Board Staff's LOI and indicated (1) that Fullerton Landscape Architects was the excavator; (2) that Fullerton Landscape Architects did not request a locate prior to commencing construction; and (3) that Fullerton Landscape Architects damaged an underground facility operated by Comcast.
4. Based on the results of an investigation conducted by Board Staff, Board Staff issued a Notice of Probable Violation and Offer of Settlement ("NOPV") dated April 13, 2017 pursuant to the Underground Facility Protection Act, N.J.S.A. 48:2-73 to -91 to Fullerton Landscapes Architects.
5. On April 13, 2017, the NOPV was mailed to Fullerton Landscape Architects at 12 Chester Terrace, Succasunna, NJ 07876 by certified and regular mail.
6. The certified mail enclosing the NOPV and Answering Certification was signed for on 4/27/2017. The certified mail receipt is attached hereto. The regular mail was not returned.
7. Despite having received proper notice, Fullerton Landscape Architects failed to file the Answering Certification within twenty-one (21) days pursuant to N.J.A.C. 14:2-6.5(a). To date, Fullerton Landscape Architects has not filed an Answering Certification.
8. As a result of this, Fullerton Landscapes is in default pursuant to N.J.A.C. 14:2-6.6(a).

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.


Ann Lang

Date: 10.4.18



04/13/2017

In the Matter of:

**Fullerton Landscapes
12 Chesler Terrace
Succasunna, NJ 07876**

NOTICE OF PROBABLE VIOLATION AND OFFER OF SETTLEMENT

DATE OF PROBABLE VIOLATION: 06/02/2016

LOCATION: 73 Glenmere Dr, Chatham, NJ 07928

OPERATOR OF THE FACILITY: COMCAST

BRIEF DESCRIPTION OF POSSIBLE VIOLATION: DID NOT HAVE A VALID MARKOUT AT TIME OF EXCAVATION

MARKOUT REQUEST NO.:161541819

STATUTE, REGULATION, OR ORDER VIOLATED: N.J.S.A. 48:2-82(a)

Case #: COC2016-0144

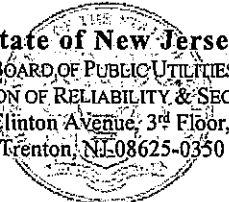
To Whom it May Concern:

The Board of Public Utilities ("Board") has jurisdiction to oversee and enforce the provisions of the Underground Facility Protection Act ("Act"), N.J.S.A. 48:2-73 et seq. The Act requires excavators to notify the NJ One-Call Center prior to excavating ("One Call Obligation"). Violators of the Act are subject to a civil penalty of not less than \$1,000 and not more than \$2,500 per violation per day. The civil penalty for a related series of violations may not exceed \$25,000. If the violation of the Act involves natural gas facilities, the maximum penalties are \$100,000 per violation per day, with a total maximum of \$1,000,000 for a related series of violations.

Board staff has reviewed information received in connection with a complaint concerning an Excavation, as defined in N.J.S.A. 48:2-75, undertaken by **Fullerton Landscapes** ("Respondent") ("You") without fulfilling the One Call Obligation.

Specifically, the information reviewed included: (1) Operator reports submitted by Utilities pursuant to N.J.A.C. 14:2-4.4; (2) New Jersey One Call ticket records; and (3) documents submitted by You in response to Board Staff's inquiry in this matter. A Certification by **ANDREW KVARTA**, is attached hereto.

In this case, it has been determined that you failed to contact the One Call Center prior to commencing excavation in violation of N.J.S.A. 48:2-82 and N.J.A.C. 14:2-3.1 and 3.2.


State of New Jersey
BOARD OF PUBLIC UTILITIES
DIVISION OF RELIABILITY & SECURITY
44 South Clinton Avenue, 3rd Floor, Suite 314
Trenton, NJ 08625-0350

While Board Staff has preliminarily concluded that there is sufficient basis to initiate an enforcement action against you, it has determined that it will first offer you an opportunity to settle this matter and thereby avoid the initiation of disciplinary proceedings.

IF YOU DO NOT CONTEST THE CHARGES and wish to avail yourself of this settlement opportunity, within twenty-one (21) calendar days from the date of this notice, you MUST sign and return the enclosed certification and agree to the following:

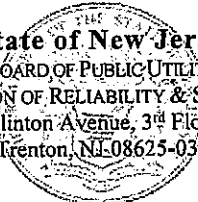
1. Cease and desist from violating the provisions of N.J.S.A. 48:2-73 et seq. as set forth above.
2. Pay a minimum penalty in the amount of: **\$3000.00.**

If these sums are remitted along with your signed certification, you need not do anything further.

IF YOU DO NOT CONTEST THE CHARGES but want to present new information to Board Staff about the mitigating circumstances that may have changed in your case that you believe may persuade Board Staff to reduce the civil penalty in this matter, you may request an informal mitigation conference. Alternatively, you may send written documentation to Board Staff concerning any mitigating circumstances which may persuade Board Staff to reduce the penalty. In order to elect either of these options, you MUST return the enclosed certification within twenty-one (21) calendar days from the date of this notice. Board Staff will then review this material and respond to you.

IF YOU CONTEST THE CHARGES, and do not wish to settle the matter consistent with the terms set forth above, you MUST so indicate on the Answering Certification, in accordance with N.J.A.C. 14:7-2.3(b). The Board may then issue an Administrative Order and Notice of Civil Administrative Penalty pursuant to N.J.A.C. 14:7-2.5. If the Board issues an Administrative Order and Notice of Civil Administrative Penalty you may request an Administrative Hearing in accordance with N.J.A.C. 14:7-2.6. You should be aware that in making its final decision, the Board may, if unlawful activity has been proven, order penalties and remedies beyond those offered in this letter. Specifically, you may be ordered to: pay civil penalties of not less than \$1,000 and not more than \$2,500 per violation per day. The civil penalty for a related series of violations may not exceed \$25,000. If the violation of the Act involves natural gas facilities, the maximum penalties are \$100,000 per violation per day, with a total maximum of \$1,000,000 for a related series of violations.

Before a determination is made with regard to whether a hearing will be conducted and whether the matter will be heard before the Board or referred to the Office of Administrative Law, you may be required to attend an informal conference with Board Staff. You may be accompanied by counsel. Should you have any questions regarding this procedure, please contact **ANDREW KVARTA** in writing. The purpose of this informal conference is to discuss the issues in the matter. It might be helpful if you bring a copy of any documentation that supports your position with you to the informal conference. If the Board grants your request for a hearing pursuant to 14:7-2.6, you, either personally or with the assistance of an attorney, will have an opportunity to respond to the charges and submit evidence and present testimony as may be necessary in order for the Board to make a final determination concerning the charges of unlawful activity.


State of New Jersey
BOARD OF PUBLIC UTILITIES
DIVISION OF RELIABILITY & SECURITY
44 South Clinton Avenue, 3rd Floor, Suite 314
Trenton, NJ 08625-0350

IF YOU FAIL TO SUBMIT THE ANSWERING CERTIFICATION within twenty-one (21) calendar days of receiving this NOPV, the settlement offer will be withdrawn, and you will be deemed in DEFAULT, pursuant to N.J.A.C. 14:7-2.4(a). The allegations against you will be deemed uncontested. Thereafter this notice and the underlying proofs may be reviewed by the Board, and the Board may issue a Final Order of Penalty Assessment ("FOPA"). In issuing a FOPA, the Board will not be bound by any compromise or settlement offer. Once a FOPA has been entered, your failure to pay any penalties within the time allowed, as set forth in N.J.A.C. 14:7-2.4(e) will result in the filing of a Certificate of Debt. Service of a Final Order will be deemed effective if sent by certified mail to the last known mailing address.

This offer of compromise and settlement is made to you without prejudice as to the position of the State of New Jersey or any agency or subdivision thereof if other violations are present. This offer of compromise is for settlement purposes only, and only applies to the specific incident listed herein. Additionally, the Board may notify any relevant regulatory and/or licensing agency(ies) of the enclosed violations.

If you accept a compromise and settlement, Board Staff will recommend that this matter, involving only the specific violation listed above, be terminated by a formal Board acceptance of this compromise and settlement at a regularly-scheduled public agenda meeting. You are advised that you have the right to request a hearing in this matter and that, if you accept this settlement offer, you are waiving your right to such a hearing or to otherwise contest this matter through the administrative or judicial processes.

The attached Answering Certification must be filed with the Board within 14 business days. Such certification should be mailed to:

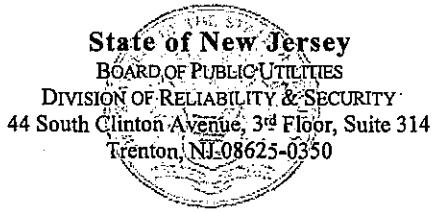
Michael Greco, BPU Chief Fiscal Officer
NJ Board of Public Utilities
Office of Budget and Finance
44 South Clinton Avenue-9th Floor
PO Box 350
Trenton, New Jersey 08625-0350
Attention: One Call Enforcement

With a copy to:

Phil Galka, Bureau Chief
Board of Public Utilities
44 South Clinton Ave
3rd Floor Suite 314 PO Box 350
Trenton, NJ 08625

Date: ___/___/___

ANDREW KVARTA
Board of Public Utilities



ANSWERING CERTIFICATION

COC2016-0144

I, _____, hereby acknowledge that I have read and reviewed Board Staff's Notice dated 04/13/2017 regarding allegations of violations of the Underground Facility Protection Act (Act), N.J.S.A. 48:2-73 et seq. and the regulations promulgated pursuant thereto, including N.J.A.C. 14:2-1.1 et seq.

Please check one:

I DO NOT CONTEST THE CHARGES and acknowledge the conduct which has been charged and agree to:

- 1. Cease and desist from violating the provisions of N.J.S.A. 48:2-73 et seq. as set forth above.
- 2. Pay a minimum penalty in the amount of \$3000.00.

I understand and acknowledge that I must comply with the provisions of N.J.S.A. 48:2-73 et seq. and all regulations promulgated thereto. I am also aware that the action taken against me by the Board herein is a matter of public record, and that the Notice of Probable Violation and this Certification are public documents. I am enclosing herewith a check or money order in the sum of \$3000.00 made payable to the **TREASURER, STATE OF NEW JERSEY**

Sent to : Michael Greco, BPU Chief Fiscal Officer
NJ Board of Public Utilities
Office of Budget and Finance
44 South Clinton Avenue-9th Floor
PO Box 350
Trenton, New Jersey 08625-0350
Attention: One Call Enforcement

You must write **COC2016-0144** as indicated above, on your check.

If you accept a compromise and settlement, Board Staff will recommend that this matter, involving only the specific violation listed above, be terminated by a formal Board acceptance of this compromise and settlement at a regularly-scheduled public agenda meeting. You are advised that you have the right to request a hearing in this matter and that, if you accept this settlement offer, you are waiving your right to such a hearing or to otherwise contest this matter through the administrative or judicial processes. The Board will determine whether to accept Board Staff's recommendation to terminate this matter by Board acceptance of this compromise and settlement. If the Board does not accept this compromise and settlement, you will be notified.

I am aware that failure to comply with this settlement may subject me to further enforcement proceedings and any failure to make a required payment will result in the filing of a Certificate of Debt.

Dated: ___/___/___

By: _____
Authorized representative of:
Fullerton Landscapes
COC2016-0144

State of New Jersey
BOARD OF PUBLIC UTILITIES
DIVISION OF RELIABILITY & SECURITY
44 South Clinton Avenue, 3rd Floor, Suite 314
Trenton, NJ 08625-0350

_____ I DO NOT CONTEST THE CHARGES and hereby waive any rights I may have to a hearing in this matter in order to defend myself against any charges. BUT I ask **ANDREW KVARTA** of the NJ BPU to consider new mitigating circumstances in my case before making a recommendation to the Board and rendering its final decision.

I would like to present this mitigating information as follows: (check one)

_____ I request a mitigation conference to present new information to Board Staff; please advise me of the date on which this conference will be scheduled.

_____ I am submitting new written documentation concerning mitigation circumstances; I understand that Board Staff will consider this material before rendering a final decision.

I understand that, if, after considering the mitigation evidence presented, Board Staff is not persuaded that any reduction in the amounts set forth above and in the notice is warranted or that any of the other terms or conditions should be modified, the Board Staff will recommend that the following terms be ordered and if accepted by the Board, I will be obligated to:

1. Cease and desist from violating the provisions of N.J.S.A. 48:2-73 et seq. as set forth above.
2. Pay a minimum penalty in the amount of **\$3000.00**.

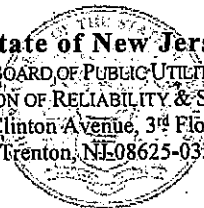
If a modification in these terms is accepted by Board Staff, I will be notified of the amounts that I must pay. I am also aware that the action taken against me is a matter of public record, and that the Board's Notice and this Certification are public documents. Failure to comply may subject me to further enforcement proceedings and any failure to make a required payment will result in the filing of a Certificate of Debt.

If you accept a compromise and settlement, Board Staff will recommend to the Board that this matter involving only the specific violation listed above be terminated by a formal Board acceptance of this compromise and settlement at a regularly-scheduled public agenda meeting. You are advised that you have the right to request a hearing in this matter and that, if you accept this settlement offer, you are waiving your right to such a hearing or to otherwise contest this matter through the administrative or judicial processes.

Dated: ___/___/___

By: _____

Authorized representative of:
Fullerton Landscapes
COC2016-0144


State of New Jersey
BOARD OF PUBLIC UTILITIES
DIVISION OF RELIABILITY & SECURITY
44 South Clinton Avenue, 3rd Floor, Suite 314
Trenton, NJ 08625-0350

I CONTEST THE CHARGES and do not wish to settle the matter consistent with the settlement terms outlined in the NOPV. I understand that the Board may issue an Administrative Order and Notice of Civil Administrative Penalty pursuant to N.J.A.C. 14:7-2.5. If the Board issues an Administrative Order and Notice of Civil Administrative Penalty I understand that I may request an Administrative Hearing in accordance with N.J.A.C. 14:7-2.6. I further understand that I may be required to attend a pre-hearing conference at which the issues in this matter will be discussed. If after the issuance of an Administrative Order and Notice of Civil Administrative Penalty, I request, and am granted a hearing pursuant to N.J.A.C. 14:7-2.6, I am aware that I may be represented by an attorney and that at the time of the hearing I may offer testimony, documentation and legal argument relevant to the charges. I understand that in making the final decision, the Board may, if unlawful activity has been proven, assess civil penalties in an amount greater than that herein offered in the Board Staff's letter and may order such other remedies as it may deem appropriate. I am also aware that this proceeding is a matter of public record and that the Board's Notice and this Certification are public documents.

Dated: ___ / ___ / ___

By: _____
Authorized representative of:
Fullerton Landscapes
COC2016-0144

State of New Jersey
BOARD OF PUBLIC UTILITIES
DIVISION OF RELIABILITY & SECURITY
44 South Clinton Avenue, 3rd Floor, Suite 314
Trenton, NJ 08625-0350

CERTIFICATION OF ANDREW KVARTA

**DID NOT HAVE A VALID MARKOUT AT TIME OF EXCAVATION
COC2016-0144**

In the Matter of:

**Fullerton Landscapes
12 Chesler Terrace, Succasunna NJ 07876**

I, **ANDREW KVARTA**, hereby certifies and says:

1. I am an investigator, at the New Jersey Board of Public Utilities and have held that position at all times relevant to this Certification.
2. I have reviewed the Operator Report(s) submitted to the Board by utility Operator(s) pursuant to N.J.A.C. 14:2-4.4. These reports identify **Fullerton Landscapes**, as having been involved in a one-call incident on **06/02/2016**.
3. I have reviewed the documents submitted by **Fullerton Landscapes**. Pursuant to these submissions, the conduct of **Fullerton Landscapes** constitutes excavating as defined in 14:2-1.2.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date: ___/___/___

ANDREW KVARTA
Board of Public Utilities