



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

IN THE MATTER OF ALLEGED VIOLATIONS OF THE UNDERGROUND FACILITY PROTECTION ACT, <u>N.J.S.A. 48:2-73 ET SEQ.</u>)))))))	DIVISION OF RELIABILITY AND SECURITY <u>ORDER ACCEPTING SETTLEMENTS</u> DOCKET NOS. GS06030196K GS07060430K - GS07060502K
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(See attached Appendix)

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," while the term "operator" is defined as "a person owning or operating, or controlling the operation of, an underground facility . . ." N.J.S.A. 48:2-75. The One-Call Damage Prevention System ("the System") coordinates communication and responsive action between these two groups of persons. N.J.S.A. 48:2-80, -82.

The Act subjects violators of its provisions to civil penalties of not less than \$1,000 and not more than \$2,500 per violation per day. N.J.S.A. 48:2-88. Violation of a provision relating to natural gas or hazardous liquid underground pipelines or distribution facilities shall subject the violator to civil penalties not to exceed \$25,000 per day and not to exceed \$500,000 for any related series of violations. In addition, the 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 Appendix and informed them of the date and location of the alleged violations, also listed on the Appendix.

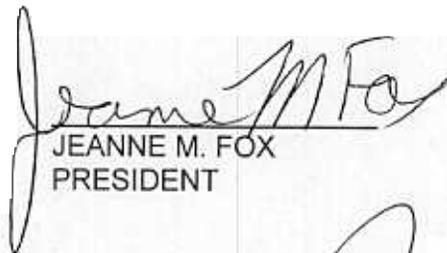
In an attempt to resolve these matters, each excavator or operator listed on the Appendix has submitted an Offer of Settlement to the Board for its consideration. After consideration of these matters, the Board HEREBY FINDS these offers of settlement to be reasonable and in the public interest, and HEREBY ACCEPTS these offers of settlement in full satisfaction of the above referenced alleged violations of the Act.

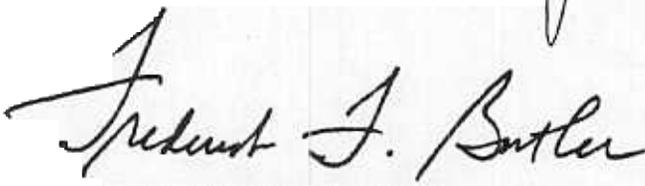
By acceptance of the various Offers of Settlement and the timely payment thereof, the Excavator or Operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Underground Facility Protection Act in connection with the above 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 set out 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

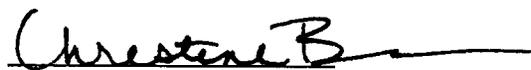
DATED: 8/1/07

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER

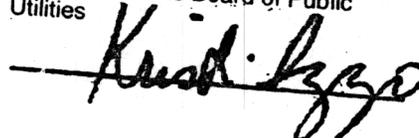

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

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



Damage Matrix	BPU Dkt. No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS07060439K	GOC2005-0010	No Call	20,000		Horizon Ferrite & Pest Control*	5/18/2005	80 West Prospect, Waldwick	11/20/2005
Damage, Gas	GS07060430K	GOC2004-0515	Did not properly mark out	\$10,000	PSE&G(G)*		8/19/2004	71 University Place, Princeton Univ. dorm/Evacuation	9/23/2004
Damage, Gas	GS07060431K	GOC2004-0606	Did not properly mark out	\$17,000	PSE&G(G)*		7/15/2004	623 Orchard Way, Mt. Laurel/17 days late	8/18/2005
Damage, Cable	GS07060432K	GOC2004-0632	Did not properly mark out	\$3,000	PSE&G(G)*		7/29/2004	3 Ware Rd, Upper Saddle River Intersect, Clifton Ave., & Durant Long Branch	10/8/2004
Damage, Gas	GS07060433K	GOC2005-0043	Did not properly mark out	\$3,000	New Jersey Natural Gas*		10/18/2006		2/21/2007
Damage, Gas	GS07060434K	GOC2005-0048	Did not properly mark out	\$3,000	New Jersey Natural Gas*		4/25/2005	2174 Rt. 35, Holmdel	2/21/2007
Damage, Gas	GS07060435K	GOC2005-0058	Did not properly mark out	\$3,000	New Jersey Natural Gas*		4/28/2005	59 Freneau Ave., Matawan	2/21/2007
Damage, Gas	GS07060436K	GOC2005-0062	Did not properly mark out	\$3,000	New Jersey Natural Gas*		4/28/2005	1105 Hazelwood Drive, Toms River	2/21/2007
Damage, Gas	GS07060437K	GOC2006-0003	Failure to hand dig & locate	\$6,000		PSE&G(G)*	5/31/2006	289 Summit Ave., Hackensack/Evacuation	1/19/2007
Damage, Gas	GS07060438K	GOC2006-0022	No Call	\$6,000		Edwards Mechanical Plumbing & Heating*	7/27/2006	419 Monmouth Ave., Lakewood	10/24/2006
Damage, Gas	GS07060439K	GOC2006-0023	Excavated outside work area	\$6,000		JCR&L*	7/27/2006	Hurley Pond Rd., Wall Township/Road Closure	9/15/2006
Damage, Gas	GS07060440K	GOC2006-0029	No Call	\$3,000		Solid Solutions*	12/27/2006	1700 Burton Ave., Northfield	5/24/2007
Damage, Gas	GS07060441K	GOC2006-0031	Did not properly mark out	\$3,000	South Jersey Gas*		12/12/2006	2816 Fire Rd., Egg Harbor Twp.	3/23/2007
Damage, Electric	GS07060442K	GOC2006-0032	Failure to hand dig & locate	\$6,000		Marlin Construction Services*	9/21/2006	40 Clyde Potts Drive, Morristown/Evacuation	4/28/2006
Damage, Gas	GS07060443K	GOC2006-0037	Failure to hand dig & locate	\$6,000		Little Silver Electric*	11/20/2006	415 Jack Martin Blvd., Brick/Evacuation	2/1/2007
Damage, Gas	GS07060444K	GOC2006-0038	Did not properly mark out	\$6,000	New Jersey Natural Gas*		12/11/2006	Lacey Rd., Forked River/Road Closure	2/21/2007
Damage, Gas	GS07060445K	GOC2006-0039	Failure to hand dig & locate	\$3,000		Star of the Sea Concrete*	11/21/2006	Lacey Rd., Lacey	4/14/2007
Damage, Gas	GS07060446K	GOC2006-0041	No Call	\$20,000		Jersey Central Power & Light*	12/14/2006	Commerce Street, Raritan/Evacuation	2/7/2007
Damage, Gas	GS07060447K	GOC2006-0042	Failure to Maintain & Preserve Markout	\$3,000		Star of the Sea Concrete*	11/21/2006	Lacey Rd., Lacey	4/14/2007
Damage, Gas	GS07060448K	GOC2006-0043	Did not properly mark out	\$3,000	New Jersey Natural Gas*		4/19/2005	455 Rt. 520 Marlboro	2/21/2007
Damage, Gas	GS07060449K	GOC2006-0044	No Call	\$10,000		Gloucester Terminals*	12/1/2006	Komatsu Yard, N Broadway, Gloucester City/Transco line nicked	1/30/2007
Damage, Gas	GS07060450K	GOC2006-0045	No Call	\$3,000		Star of the Sea Concrete*	10/2/2006	244 Elmwood Ave., Union	5/18/2007
Damage, Gas	GS07060451K	GOC2006-0049	Did not properly mark out	\$3,000	Elizabethtown Gas*		10/19/2006	38 Claire Ave., Woodbridge	5/24/2007
Damage, Gas	GS07060452K	GOC2006-0053	Did not properly mark out	\$3,000	Elizabethtown Gas*		10/23/2006	79 Albert St., Woodbridge	5/24/2007
Damage, Gas	GS07060453K	GOC2006-0062	Did not properly mark out	\$3,000	PSE&G(G)*		8/3/2004	730 Passaic Ave., Kearny	9/29/2005
Damage, Gas	GS07060454K	GOC2006-0063	Did not properly mark out	\$3,000	Elizabethtown Gas*		12/13/2006	271 Woodbridge Ave., Woodbridge	5/24/2007

Damage Matrix	BPU Dkt No.	One Call Docket No	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description	Payment Received
Damage, Gas	GS07060455K	GOC2006-0065	Did not properly mark out	\$3,000	Elizabethtown Gas*		12/19/2006	79 Lexington St., Meluchen Morris Ave., & Railway Ave., Union/Excavation	6/4/2007
Damage, Gas	GS07060456K	GOC2006-0067	Did not properly mark out	\$6,000	Elizabethtown Gas*		1/17/2006	415 Delaware Ave., Egg Harbor Twp.	2/6/2007
Damage, Gas	GS07060457K	GOC2006-0074	Failure to hand dig & locate	\$3,000		Atlantic Electric*	10/10/2006		5/16/2007
Damage, Gas	GS07060458K	GOC2006-0080	No Call	\$3,000		Utility Pole Technologies*	10/14/2006	331 S. 2nd St., Millville	5/14/2007
Damage, Gas	GS07060459K	GOC2006-0096	No Call	\$3,000		Verizon*	11/6/2006	Edgewood Rd., Cedarbrook	5/15/2007
Damage, Gas	GS07060460K	GOC2006-0088	No Call	\$3,000		Tri County Building Supplies*	11/10/2006	1001 Doughy Rd., Pleasantville	5/18/2007
Damage, Gas	GS07060461K	GOC2006-0099	Failure to use reasonable care	\$1,000		All Terrain*	10/13/2006	0 PRW 22, Harding	5/14/2007
Damage, Gas	GS07060462K	GOC2006-0100	Failure to hand dig & locate	\$3,000		Ferreira Construction*	10/13/2006	234 Pierson, Edison	5/18/2007
Damage, Gas	GS07060463K	GOC2006-0101	Excavated outside work area	\$3,000		PSE&G(G)*	10/18/2006	4140 Quakerbridge Rd., Lawrence	6/14/2007
Damage, Gas	GS07060464K	GOC2006-0104	No Call	\$3,000		Schneider Excavating*	10/24/2006	0 Wyeath, East Windsor	5/23/2007
Damage, Gas	GS07060465K	GOC2006-0105	Did not properly mark out	\$3,000		PSE&G(G)*	10/27/2006	2509 Park Ave., South Plainfield	6/11/2007
Damage, Gas	GS07060466K	GOC2006-0114	Failure to use reasonable care	\$1,000		Waters & Bugbee Inc.*	11/27/2006	12 Starboard Way, Mt. Laurel	5/15/2007
Damage, Gas	GS07060467K	GOC2006-0120	Did not properly mark out	\$3,000		PSE&G(G)*	12/20/2006	13 Birchfield, Mt. Laurel	5/24/2007
Damage, Gas	GS07060468K	GOC2006-0127	No Call	\$3,000		Triple J's Septic Service*	10/10/2006	342 North Arlington Ave., Bayville	6/4/2007
Damage, Gas	GS07060469K	GOC2006-0136	Failure to use reasonable care	\$1,000		J. Fletcher Creamer & Son*	11/29/2006	197 Betsy Ross Dr., Freehold Twp.	5/18/2007
Damage, Gas	GS07060470K	GOC2006-0138	No Call	\$3,000		Asbury Fuel Oil*	12/19/2006	1010 Sunset Ave., Asbury Park	5/18/2007
Damage, Gas	GS07060471K	GOC2006-0139	Failure to maintain & preserve markout	\$3,000		Atlantic Electric*	12/19/2006	2 Crane Court, Manahawkin	5/16/2007
Damage, Gas	GS07060472K	GOC2007-0001	Failure to hand dig & locate	\$6,000		Magic Touch*	1/24/2007	900 Franklin Ave., Newark/Excavation	5/9/2007
Damage, Gas	GS07060473K	GOC2007-0003	Did not properly mark out	\$6,000		Elizabethtown Gas*	2/22/2007	Sunnyview Oval, Woodbridge/Excavation	6/4/2007
Damage, Gas	GS07060474K	GOC2007-0004	No Call	\$3,000		DH Romaine Construction Co.*	3/14/2007	230 West Parkway, Pequannock	5/18/2007
Damage, Gas	GS07060475K	GOC2007-0005	No Call	\$3,000		Progressive Construction*	4/20/2007	215 Shore Dr., Highlands	5/17/2007
Damage, Gas	GS07060476K	GOC2007-0006	Failure to use reasonable care	\$1,000		Ace Manzo*	4/25/2007	Harbour Inn Rd., Bayville	5/30/2007
Damage, Gas	GS07060477K	GOC2007-0007	No Call	\$6,000		NW Sign Industries*	4/26/2007	RT 22 & County Club Lane, Bridgewater/Service to sewage pumping facility	5/23/2007
Damage, Cable	ES07060478K	COC2006-0007	No Call	\$1,000		Star of the Sea Construction*	7/11/2006	Twin River Rd., East Windsor	8/18/2006
Damage, Electric	CS07060479K	EOC2006-0001	Did not properly mark out	\$24,000		Jersey Central Power & Light*	11/15/2006	Main St., Memorial Way Manchest, Sayreville/Road Closure	2/7/2007

Damage Matrix	BRU Dkt No.	One Call Docket No	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description	Payment Received
Damage Water	WS07060480K	W0CC2007-0001	Failure to use reasonable care	\$1,000		Montana Construction Inc.*	1/26/2007	83rd Biv. Tonnelle & Westside A. North Bergen	5/16/2007
No Damage	GS07060481K	OC#7-5-05	Did not properly mark out	\$4,000	PSE&G(G)*		6/19/2005	130 Kingsberry Dr., Franklin4 days late	10/6/2005
No Damage	TS07060482K	OC#4-06	Failure to report damage on Quarterly report	\$1,000	Verizon*		5/11/2005	N. Gaston Rd., Somerville	7/11/2006
No Damage	TS07060483K	OC#5-06	Did not properly mark out	\$1,000	Verizon*		1/6/2006	33 Havens Bridge Rd., Howell	4/13/2007
No Damage	GS07060484K	OC#6-06	Early Dig	\$1,000		Taylor Fence*	1/29/2006	58 Main St., Matwan Baro	2/5/2007
No Damage	GS07060485K	OC#6-06	Did not properly mark out	\$1,000	South Jersey Gas*		10/16/2005	4501 Park Rd., Sea Isle	8/17/2006
No Damage	GS07060486K	OC#6-06	Did not properly mark out	\$1,000	South Jersey Gas*		10/14/2005	201 Sterling Ave., Egg Harbor Twp.	8/17/2006
No Damage	GS07060487K	OC#10-06	Did not properly mark out	\$1,000	South Jersey Gas*		10/25/2005	11 Caynon Drive, Berlin	8/17/2006
No Damage	GS07060488K	OC#13-06	Did not properly mark out	\$1,000	South Jersey Gas*		10/14/2005	40 Elberon Ave., Atlantic City	8/17/2006
No Damage	GS07060489K	OC#15-06	Did not start excavation within 10 days of calling	\$1,000		J. Fletcher Creamer & Son*	7/27/2006	0 Devon Dr., Manalapan	8/16/2006
No Damage	GS07060490K	OC#2-07	No Call	\$3,000		Elizabethtown Gas*	10/26/2006	Long Ferry Rd., Perth Amboy/Emergency Repair Excavation History of No Call Morris Ave., & Rahway Ave., Union/Emergency Repair Excavation History of No Call	2/6/07
No Damage	GS07060491K	OC#3-07	No Call	\$6,000		Elizabethtown Gas*	11/17/2007		2/6/2007
No Damage	GS07060492K	OC#5-07	No Call	\$3,000		Elizabethtown Gas*	2/6/2007	1 Warren Glen Bloomsbury Rd., Pohatcong	5/31/2007
No Damage	GS07060493K	OC#6-07	Did not properly mark out	\$3,000	Elizabethtown Gas*		2/23/2007	Hillside Gardens, Woodbridge	6/4/2007
No Damage	GS07060494K	OC#7-07	Did not properly mark out	\$3,000	Elizabethtown Gas*		2/6/2007	1 Warren Glen Bloomsbury Rd., Pohatcong	5/31/2007
No Damage	AS07060495K	OC#6-07	No Call	\$1,000		Baro of Barrington*	3/29/2007	Shreve Ave., Barrington	6/13/2007
No Damage	AS07060496K	OC#4-07	Did not hand dig within 2 feet of mark	\$3,000		CORR PRO Companies*	2/6/2007	1 Warren Glen Bloomsbury Rd., Pohatcong	6/1/2007
No Damage	ES07060497K	OC#9-07	Did not properly mark out	\$1,000	Jersey Central Power & Light*		4/11/2007	3 Old Farm Rd., Holmdel	5/25/2007
No Damage	ES07060498K	OC#11-07	Did not properly mark out	\$1,000	Jersey Central Power & Light*		4/4/2007	758 Navesink River Rd., Middletown	5/25/2007
No Damage	TS07060499K	OC#12-07	Did not properly mark out	\$1,000	Verizon*		4/4/2007	758 Navesink River Rd., Middletown	5/22/2007
No Damage	GS07060500K	OC#13-07	Did not properly mark out	\$3,000	New Jersey Natural Gas*		4/4/2007	758 Navesink River Rd., Middletown	5/30/2007
No Damage	GS07060501K	OC#14-07	Did not properly mark out	\$3,000	New Jersey Natural Gas*		4/6/2007	758 Navesink River Rd., Middletown	5/30/2007
No Damage	GS07060502K	OC#15-07	Failure to report damage on Quarterly report	\$1,000	Jersey Central Power & Light*		11/30/2006	8 Bridgewater Way, Farmingdale	5/25/2007

Total Cases: 74

Total amount collected: \$304,000.