



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
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. GS09080685K, et al)
(see attached Appendix)

(SERVICE LIST ATTACHED)

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 and not to exceed \$25,000 for any related series of violations. N.J.S.A. 48:2-88(a). 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 \$100,000 per day and not to exceed \$1,000,000 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.

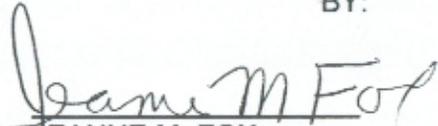
In an attempt to resolve these matters, each excavator or operator listed on the Appendix has submitted an Offer of Settlement to the Board for its consideration. Each such Offer of Settlement is summarized in the Appendix. The Offers of Settlement were made available to the Board to review. After consideration 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

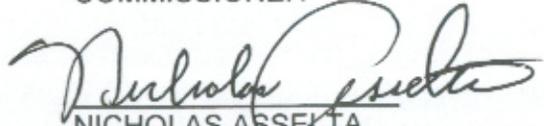
DATED: 12/1/09

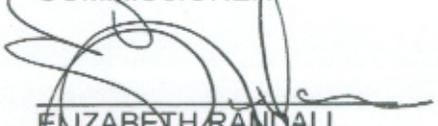
BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

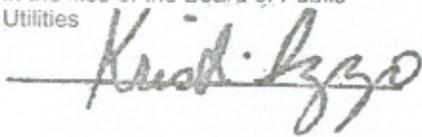

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
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 Type	BPU Docket No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS09080685K	GOC2006-0134	Careless	\$1,000		County of Ocean*	10/31/2006	5606 Long Beach Blvd., Brandt Beach	12/3/2008
Damage, Gas	GS09080691K	GOC2007-0066	Did not properly mark out	\$3,000	Elizabethtown Gas*	LEW Corporation*	3/13/2007	650 Florence Terrace, Union	7/2/2008
Damage, Gas	GS09080689K	GOC2007-0069	No Call	\$3,000		Town of Hammonon*	3/14/2007	80-82 Dehart Pl., Elizabeth	6/10/2008
Damage, Gas	GS09080675K	GOC2007-0081	No Call	\$3,000			1/8/2007	Grand Avenue, Hammonon	2/24/2009
Damage, Gas	GS09080679K	GOC2007-0082	Did not properly mark out	\$3,000	South Jersey Gas*		2/11/2007	535 Egg Harbor Road, Washington Township	6/27/2008
Damage, Gas	GS09080680K	GOC2007-0087	Did not properly mark out	\$3,000	South Jersey Gas*	Just Rite Construction*	3/1/2007	317 100th Street, Stone Harbor Boro	6/27/2008
Damage Gas	GS09080683K	GOC2007-0100	Did not hand dig and Locate	\$3,000		Newark Water Dept.*	1/3/2007	18 Quail, Edgewater	7/24/2008
Damage, Gas	GS09080674K	GOC2007-0109	No Call	\$3,000			2/10/2007	87 Aldine, Newark	10/31/2008
Damage, Gas	GS09080687K	GOC2007-0138	Did not properly mark out	\$6,000	PSE&G(G)*		8/7/2007	55 Grovers Mill Road, Plainsboro	3/9/2009
Damage, Gas	GS09080686K	GOC2007-0155	Did not properly mark out	\$3,000	PSE&G(G)*		9/12/2007	Bayberry Court & Rt 9 S, Marlboro	3/2/2009
Damage, Gas	GS09080681K	GOC2007-0184	Did not properly mark out	\$3,000	South Jersey Gas*		8/30/2007	1833 Magnolia Rd., Vineland	6/27/2008
Damage, Gas	GS09080682K	GOC2007-0196	Did not properly mark out	\$3,000	South Jersey Gas*		9/4/2007	612 Ohio Avenue, Absecon	6/27/2008
Damage, Gas	GS09080676K	GOC2007-0235	Did not properly mark out	\$6,000	PSE&G(G)*		9/26/2007	1350 Stuyvesant Ave., Trenton	2/23/2009
Damage, Gas	GS09080678K	GOC2007-0236	Did not properly mark out	\$3,000	PSE&G(G)*		9/26/2007	4 Peach Hill Court, Ramsey	2/1/2009
Damage, Gas	GS09080693K	GOC2007-0287	Did not properly mark out	\$6,000	PSE&G(G)*		11/29/2007	Wisteria Rd./West End Ave, Atlantic City	7/22/2008
Damage, Gas	GS90080692K	GOC2007-0290	Did not properly mark out	\$6,000	South Jersey Gas*	M.L. Ruberton Construction Co., Inc.*	12/12/2007	7099 Black Horse Pike, US Hwy 40, Egg Harbor Township	7/22/2008
Damage, Gas	GS09080672K	GOC2008-0015	Did not hand dig and Locate	\$3,000			4/29/2008	Center Street, Roxbury	9/3/2008
Damage, Gas	GS09080690K	GOC2008-0016	Did not properly mark out	\$6,000	PSE&G(G)*		5/2/2008	Lincoln Avenue, Glen Rock	6/11/2008
Non Damage	WS09080684K	OC#34-07	Did not properly mark out	\$1,000	United Water*		8/21/2007	1000 Anderson Avenue, Fort Lee	11/21/2008
Non Damage	GS09080677K	OC#35-07	Did not properly mark out	\$1,000	Elizabethtown Gas*		10/17/2007	455 Middlesex Avenue, Metuchen	2/17/2009
Non Damage	WS09080673K	OC#1-08	Did not properly mark out	\$1,000	New Jersey American Water*		12/6/2007	Evans Street, Elizabeth	9/12/2008
Non Damage	GS09080671K	OC#5-08	No Call	\$10,000		New Jersey Natural Gas Co.*	9/12/2007	1124C Long Beach Blvd., North Beach, Long Branch	8/13/2008
Non Damage	ES09080688K	OC#13-08	Did not properly mark out	\$6,000	PSE&G(E)*		4/14/2008	149 Bernard Avenue, Edison	6/18/2008
Non Damage	ES09100862K	OC#2-08	Failure to Report Damage on Quarterly	\$1,000	Jersey Central Power & Light Co.*		9/13/2007	6 Dorchester Rd., Annadale	9/11/2009
Damage, Telephone	TS09100863K	TOC2007-0005	Did not properly mark out	\$1,000	Verizon*		9/19/2007	300 US Hwy 202, Raritan	8/20/2009
Damage, Telephone	TS09100864K	TOC2007-0007	Did not properly mark out	\$6,000	Verizon*		10/5/2007	Warren & Rt. 71 Intersection, Spring Lake Heights	8/17/2009
Damage, Gas	GS09100865K	GOC2007-0107	Did not properly mark out	\$3,000	PSE&G*		2/5/2007	360 9th Street, Jersey City	6/30/2008

Total Amount of Fines: \$97,000

Total Cases: 27

Service List

Joseph J. Potena, Chief Fiscal Officer
Board of Public Utilities
44 South Clinton Avenue
7th Fl. PO Box 350
Trenton, NJ 0862

County of Ocean
Department of Finance
PO Box 2191
Toms River, NJ 08754

IEW Corp.
1090 Bristol Rd.,
Mountainside, NJ 07092

South Jersey Gas Company
Sam Pignatelli
One South Jersey Plaza Rt. 54
Folsom, NJ 08037

Town of Hammonton
Central & Third Street
Hammonton, NJ 08097

Public Service Electric & Gas Company
Chris La Rossa
80 Park Plaza Mail Code T14
Newark, NJ 07102

Elizabethtown Gas Company
Phil Salvatore
300 Connell Drive
Suite 3000
Berkeley Heights, NJ 07922

M.L. Ruberton Construction Co., Inc.
1512 Mayslanding Road
PO Box 564
Hammonton, NJ 08037

Just Rite Construction
19 Starke Lane
Delran, NJ 08075

Newark Water Department
239 Central Avenue
Newark, NJ 07102

United Water Co.
Robert Van Ingen
60 De Voe Place
Hackensack, NJ 07601

Kristi Izzo, Board Secretary
James Giuliano, Director
Douglas Ziemba, Chief
Suzanne Patnaude, Legal Specialist
2 Gateway Center
Newark, NJ 07102

New Jersey American Water
Tom Schrober
1341 North Avenue
Plainfield, NJ 07062

New Jersey Natural Gas Co.
Craig Lynch
1415 Wyckoff Road
PO Box 1464
Wall, NJ 07719

Jersey Central Power & Light
Craig Hutchkiss
300 Madison Avenue
Morristown, NJ 07962

Verizon – New Jersey
Nancy Matt
540 Broad Street, 17th Fl.
Newark, NJ 07107