

Agenda Date: 3/18/16 Agenda Item: VIA

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/

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RELIABILITY & SECURITY

IN THE MATTER OF ALLEGED VIOLATIONS OF THE UNDERGROUND FACILITY PROTECTION ACT. N.J.S.A. 48:2-73 ET SEQ.

Parties of Record:

Nick DePoto, Elizabethtown Gas Linda Baran, Metro Corp Plumbing Steven Wardell, Cranford DPW Steven Mattiola, Mattiola Services Frank Coriano. Public Service Electric and Gas Jaun Urro, LandTek Construction Phillip Marone, Marone Contractors Jeff Stanislaski, Assuncao Bros., Inc. Mike Vizzard, G.M. White Electrical Tom Frank, Joseph Fazzio, Inc. Errol Ramiz, Errol's Landscaping Cathy Hanna, Alcoa Concrete William Tappin, South Jersey Gas Luis Teran, Land Style Enterprises Ralph Hillmer, Jersey Central Power and Light James Bruno, Telecable Craig Lynch. New Jersey Natural Gas Wayne Scibilia, Whistle Stop Anthony Baricevich, New Monmouth Builders

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:

ORDER ACCEPTING SETTLEMENTS

DOCKET NOs.GS16020186K et al. (see attached appendix) 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. <u>N.J.S.A.</u> 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. <u>N.J.S.A.</u> 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. <u>N.J.S.A.</u> 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 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 March 28, 2016.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED

3-18-16 DATED: BOARD OF PUBLIC UTILITIES BY: RICHARD S. MROZ PRESIDENT

JOSÉPH L. FIORDALISO

COMMISSIONER

DIANNE SOLOMON COMMISSIONER

IRENE KIM ASBURY

ATTEST:

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

SECRETARY

COMMISSIONER

UPENDRA J. CHIVUKULA COMMISSIONER

IN THE MATTER OF ALLEGED VIOLATIONS OF THE UNDERGROUND FACILITY PROTECTION ACT, <u>N.J.S.A</u>. 48:2-73 <u>ET SEQ</u>. ORDER ACCEPTING SETTLEMENTS DOCKET NO. GS16020186K <u>et al.</u> (see attached appendix)

SERVICE LIST

Nick Depoto Elizabethtown Gas 520 Green Lane, Union, NJ 07083

Linda Baran Metro Corp Plumbing 25 Arnold Blvd. Howell, NJ 07731

Steven Wardell Cranford DPW 364 North Ave., Cranford, NJ 07016

Steven Mattiola Mattiola Services 2082 Lucon Rd., Skippack, PA 19474

Frank Coriano Public Service Electric and Gas 410 Silver Lake Ave., Edison, NJ 08817

Juan Urro LandTek Construction 875 River Rd., Piscataway, NJ 08854

Phillip Marone Marone Contractors 160 Crown Point Rd., West Deptford, NJ 08086

Jeff Stanislaski Assuncao Bros., Inc. 29 Wood Ave., Edison, NJ 08820 Mike Vizzard G.M. White Electrical 2554 North Delsea Dr., Vineland, NJ 08360

Tom Frank Joseph Fazzio, Inc. 697 Porchtown Rd., Franklinville, NJ 08322

Errol Ramiz Errol's Landscaping 45 Jackson Mills Rd., Freehold, NJ 07728

Cathy Hanna Alcoa Concrete 1221 Hayes Blvd., Bristol, PA 19007

William Tappin South Jersey Gas 1 South Jersey Plaza Folsom, NJ 08037

Luis Teran Land Style Enterprises 17 E. Broadway Hackensack, NJ 07601

Ralph Hillmer Jersey Central Power and Light 300 Madison Ave., Morristown, NJ 07962

James Bruno Telecable 1511 New Market Ave., South Plainfield, NJ 07080 Craig Lynch NJ Natural Gas 1415 Wyckoff Rd, Wall, NJ 07719

Wayne Scibilia Whistle Stop 69 John Ringo Rd., Ringoes, NJ 08551

Anthony Baricevich New Monmouth Builders 1 Renier Ct., Middletown, NJ 07748

James P. 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.state.nj.us

James P. Kane, Esq. Counsel's Office Board of Public Utilities 44 South Clinton Avenue, 3rd Floor, Suite 314 Post Office Box 350 Trenton, NJ 08625-0350 James.kane@bpu.state.nj.us

Caroline Vachier, DAG Division of Law and Public Safety 124 Halsey Street Post Office Box 45029 Newark, NJ 07101-45029 Caroline.Vachier@dol.lps.state.nj.us

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-March VIA 2016

| BPU Dkt No. | One Call | the second se | | The second s | The second se | Violation | | Payment |
|----------------|---|---|---|---|--|---|--|---|
| 1140. | Case No. | Type of Violation | Penalty | Operator | Excavator | Date | Description/Location | Received |
| | | | | | | | | |
| GS16020186K | GOC2015-0955 | Did not properly mark | \$3,000 | Elizabethtown Gas | | 7/21/2015 | Front St., Scotch Plains | 2/9/2016 |
| | | | | | | | | |
| GS16020185K | GOC2015-0735 | Did not properly mark | \$3,000 | Elizabethtown Gas | | 6/18/2015 | North Ave E., Cranford | 2/9/2016 |
| | | Did not have a valid | | | Metro Corp | | | |
| GS16020184K | GOC2014-1109 | markout | \$3,000 | | Plumbing | 10/28/2014 | Lafayette Blvd., Lakewood | 12/31/2015 |
| | | Did not have a valid | | | | | | |
| G\$16020183K | GOC2015-0271 | markout | \$3,000 | | Cranford DPW | 4/15/2015 | Garden Pl., Cranford | 1/26/2016 |
| | | | | | | | Sylvan Ave., Englewood | 100000000000000000000000000000000000000 |
| GS16020182K | GOC2015-0504 | markout | \$3,000 | | Mattiola Services | 5/11/2015 | Cliffs | 2/1/2016 |
| | | | | | | | | |
| GS16020181K | GOC2015-1302 | Did not properly mark | \$3,000 | PSE&G | | 9/16/2015 | Dixie Lane, Plainfield | 1/22/2016 |
| | | Did not have a valid | | | LandTek | | | |
| GS16020180K | GOC2015-0183 | markout | \$3,000 | | Construction | 4/1/2015 | Route 27, Iselin | 12/31/2015 |
| | | Did not have a valid | | | | | | |
| ES16020179K | EOC2015-0039 | | \$2,000 | | Marone Contractors | 1/5/2015 | Cornus Ct., Williamstown | 1/7/2016 |
| | | State and the second | | | | | | |
| GS16020178K | GOC2014-0966 | | \$3.000 | | Assuncan Rms Inc. | 10/6/2014 | Route 35 Mantoloking | 2/11/2016 |
| 001002011011 | 0002011 0000 | | 40,000 | | | 10/0/2014 | Those of the noise ing | L I WEAT |
| G\$16020177K | COC2014 0945 | | \$2,000 | | | 0/26/2014 | Boardwalk Aug. Atlantic City | 2/10/2016 |
| 0310020111K | 6002014-0645 | | 33,000 | | Electrical | 9/20/2014 | 1 | 2/10/2010 |
| 0.0400004444 | | | | | | 0.000 | | |
| GS16020141K | GOC2014-0829 | | \$3,000 | | Joseph Fazzio, Inc. | 9/17/2014 | Monroe Twp. | 2/1/2016 |
| | | | 18 124 | 1 | 5 | | | |
| GS16020140K | GOC2015-0439 | markout | \$3,000 | | Errol's Landscape | 4/25/2015 | Hall Rd., Freehold | 1/20/2016 |
| | | Did not have a valid | | | | | | |
| ES16020147K | EOC2015-0012 | | \$2,000 | | Alcoa Concrete | 2/19/2015 | Tamar Ct., Lawrence | 1/15/2016 |
| E04000044014 | | | | | | 400044 | | 4/40/00/0 |
| ES10020140K | EUC2014-006/ | non-gas | \$2,000 | PSE&G | | 4/3/2014 | William St., East Urange | 1/13/2016 |
| GS16020145K | GOC2015-1438 | Did not properly mark | \$3.000 | South Jersey Gas | | 9/26/2015 | Johnson I.n. Voorhees | 1/15/2016 |
| 001002011011 | 0002010 1100 | pro not property mark | 40,000 | oourrocidey oud | | 512012010 | Sources | 11012010 |
| GS16020144K | GOC2015-1432 | Did not properly mark | \$3,000 | South Jersey Gas | | 9/22/2015 | Lafayette Ave., Ventnor | 1/15/2016 |
| | | Did not have a valid | | | Land Style | | | |
| GS16020143K | GOC2015-1297 | | \$3,000 | | Enterprises | 9/14/2015 | Highwood Rd., Mahwah | 1/18/2016 |
| 504000044014 | | | | | | - | | |
| ES16020142K | EOG2015-0141 | non-gas | \$2,000 | JCP&L | | 6/22/2015 | Lake Rd., Roosevelt | 1/13/2016 |
| ES16020130K | E0C2015 0021 | | \$2,000 | | Tolocablo | 2/17/2015 | Chardonnau Ct. Lakowood | 1/13/2016 |
| E310020135K | 2002013-0031 | markout, non-yas | \$2,000 | | Telecable | 2/1/2013 | Charuonnay Ci., Lakewood | 1113/2010 |
| GS16020138K | GOC2015-0331 | Did not property mark | \$3,000 | PSFRG | | 4/17/2015 | Stevens Ave Jersey City | 1/4/2016 |
| | 0002010 0001 | Did not properly man | 00,000 | 10200 | | 1 11/2010 | | |
| GS16020137K | GOC2015-0300 | Did not properly mark | \$3,000 | PSE&G | | 4/9/2015 | | 1/5/2016 |
| | | | 1 | | | | | 1 |
| GS16020136K | GOC2015-0135 | Did not properly mark | \$3,000 | PSE&G | | 2/15/2015 | Delacy Dr., Plainfield | 1/5/2016 |
| | | | | | | | | |
| GS16020135K | GOC2014-1110 | Did not properly mark | \$3,000 | NJ Natural Gas | | 10/29/2014 | Union Hill, Marlboro | 1/5/2016 |
| 00400004004 | | | | | | 0.000.000 | | 41001001 |
| GS16020133K | GUC2015-1462 | Markout Did not have a walld | \$3,000 | | | 9/30/2015 | Elizabeth Ave., Raritan | 1/29/2016 |
| CS160201244 | 0002045 0520 | | 62.000 | | ¹ N. A. A. S. M. | 5/10/0045 | Mileon Avo Middlelowe | 014510044 |
| GG10020134K | 0002010-0032 | IIIdikuul | 33,000 | | Builders | 0/13/2013 | VAUSOILAVE., MIDDIELOWN | 2/15/2010 |
| | GS16020185K GS16020184K GS16020183K GS16020183K GS16020182K GS16020182K GS16020182K GS16020182K GS16020182K GS16020180K GS16020179K GS16020179K GS16020177K GS16020140K GS16020140K GS16020140K GS16020144K GS16020144K GS16020144K GS16020144K GS16020142K GS16020143K GS16020139K GS16020138K GS16020138K GS16020137K GS16020137K GS16020133K GS16020133K GS16020133K | GS16020185K GOC2015-0735 GS16020184K GOC2014-1109 GS16020183K GOC2015-0271 GS16020183K GOC2015-0271 GS16020182K GOC2015-0304 GS16020181K GOC2015-0302 GS16020180K GOC2015-0183 GS16020177K GOC2014-0966 GS16020177K GOC2014-0845 GS16020177K GOC2014-0845 GS16020141K GOC2015-0439 GS16020141K GOC2015-0439 GS16020144K GOC2015-0439 GS16020144K GOC2015-0439 GS16020144K GOC2015-1438 GS16020144K GOC2015-1432 GS16020144K GOC2015-1432 GS16020144K GOC2015-031 GS16020143K GOC2015-0331 GS16020138K GOC2015-0331 GS16020138K GOC2015-0331 GS16020136K GOC2015-0135 GS16020136K GOC2015-0135 GS16020133K GOC2015-0135 GS16020133K GOC2015-1462 | GS16020184K GOC2014-1109 markout Did not have a valid Did not have a valid GS16020183K GOC2015-0271 markout GS16020182K GOC2015-0504 markout GS16020182K GOC2015-0504 markout GS16020182K GOC2015-0504 markout GS16020181K GOC2015-1302 Did not have a valid GS16020180K GOC2015-0183 markout SS16020179K EOC2015-0039 markout, non-gas Did not have a valid Did not have a valid GS16020177K GOC2014-0966 markout Did not have a valid markout Did not have a valid GS16020177K GOC2014-0845 markout GS16020177K GOC2014-0845 markout GS16020141K GOC2014-0829 markout GS16020141K GOC2015-0439 markout GS16020140K GOC2015-0439 markout SS16020140K EOC2014-0067 non-gas Did not have a valid markout, non-gas Did not properly mark, non-gas GS16020146K EOC2015-012 markout, non-gas Did not properly mark, | GS16020185K GOC2015-0735 Did not properly mark \$3,000 Did not have a valid Did not have a valid \$3,000 GS16020184K GOC2015-0271 markout \$3,000 Did not have a valid GS16020182K GOC2015-0271 markout \$3,000 GS16020181K GOC2015-0504 markout \$3,000 GS16020181K GOC2015-0504 markout \$3,000 GS16020180K GOC2015-0183 markout \$3,000 GS16020180K GOC2015-0183 markout \$3,000 Did not have a valid GS16020179K EOC2015-0039 markout \$3,000 S16020178K GOC2014-0845 markout \$3,000 Did not have a valid GS16020177K GOC2014-0829 GOC2015-0129 GOC2015-0129 GOC2015-0129 GOC2015-0129 GOC2015-0129 GOC2015-0129 GOC2015-0129 GOC2015-0129 GOC2015-0129 GOC2015-0139 GOC2015-0139 | GS16020185K GOC2015-0735 Did not properly mark. \$3,000 Elizabethtown Gas Did not have a valid S3,000 Did not have a valid \$3,000 GS16020184K GOC2015-0271 markcut \$3,000 GS16020183K GOC2015-0271 markcut \$3,000 GS16020182K GOC2015-0504 markcut \$3,000 GS16020181K GOC2015-0504 markcut \$3,000 GS16020180K GOC2015-0130 Did not have a valid \$3,000 GS16020180K GOC2015-0133 markcut \$3,000 Did not have a valid \$3,000 S16020179K GOC2015-0139 GS16020178K GOC2014-0845 markcut \$3,000 Did not have a valid \$3,000 S16020147K GOC2014-0845 GS16020147K GOC2014-0845 markcut \$3,000 Did not have a valid \$3,000 S16020147K GOC2014-0845 GS16020147K GOC2014-0845 markcut \$3,000 S16020147K GOC2015-0121 markcut, non-gas \$2,000 | GS16020185K GOC2015-0735 Did not properly mark \$3.000 Elizabethtown Gas Did not have a valid S3.000 Plumbing GS16020184K GOC2015-0735 Did not have a valid S3.000 Plumbing GS16020182K GOC2015-0504 markout \$3.000 Cranford DPW GS16020182K GOC2015-0504 markout \$3.000 Matticla Services GS16020182K GOC2015-0504 markout \$3.000 PSE&G GS16020182K GOC2015-0504 markout \$3.000 Construction GS16020182K GOC2015-0130 Did not have a valid LandTek GS16020179K GOC2015-0139 markout, non-gas \$2,000 Marone Contractors GS16020179K GOC2014-0845 markout \$3,000 Assuncea Bros., Inc. 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