

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

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James P. Kane, Esq. Counsel's Office Board of Public Utilities 44 South Clinton Avenue, 3<sup>rd</sup> 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		<sup>1</sup> 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.     GS16020177K   GOC2014-0845   markout   \$3,000   Assuncea Bros., Inc.     Did not have a valid   GA   GA   GA   GA     GS16020141K   GOC2014-0845   markout   \$3,000   Errof's Landscape     Did no	GS16020185K   GOC2015-0735   Did not properly mark   \$3.000   Elizabethtown Gas   6/18/2015     GS16020184K   GOC2015-0735   Did not have a valid   \$3.000   Plumbing   10/28/2014     GS16020184K   GOC2015-0271   markout   \$3.000   Cranford DPW   4/15/2015     GS16020182K   GOC2015-0271   markout   \$3.000   Mattiola Services   5/11/2015     GS16020182K   GOC2015-0504   markout   \$3.000   Mattiola Services   5/11/2015     GS16020180K   GOC2015-0132   Did not have a valid   \$3.000   Construction   4/1/2015     GS16020179K   GOC2015-0133   markout   \$3.000   Construction   4/1/2015     GS16020179K   GOC2014-0966   markout   \$3.000   Assuncao Bros., Inc.   10/6/2014     GS16020177K   GOC2014-0966   markout   \$3.000   Joseph Fazzio, Inc.   9/17/2014     GS16020177K   GOC2014-0845   markout   \$3.000   Joseph Fazzio, Inc.   9/17/2014     GS16020147K   GOC2014-0845   markout   \$3.000   Jos	GS16020185K   GOC2015.0735   Did not have a valid   \$3,000   Elizabethiown Gas   6/18/2015   North Ave E, Cranford     GS16020184K   GOC2014-109   markout   \$3,000   Plumbing   10/28/2014   Lafayette Bivd., Lafawood     GS16020184K   GOC2015-0221   markout   \$3,000   Cranford DPW   4/15/2015   Garden PL, Cranford     GS16020182K   GOC2015-0220   bid not have a valid   \$3,000   Matiola Services   5/11/2015   Clifts     GS16020182K   GOC2015-0320   bid not have a valid   \$3,000   Construction   4/1/2015   Route Are, Englewood     GS16020180K   GOC2015-0320   bid not have a valid   \$3,000   Construction   4/1/2015   Route 27, Iselin     GS16020179K   EDC2015-0039   markout   \$3,000   Assuncao Bros, Inc.   10/6/2014   Route 35, Markolek     GS16020179K   GOC2014-0956   markout   \$3,000   Assuncao Bros, Inc.   10/6/2014   Route 35, Markolek     GS16020174K   GOC2014-0859   markout   \$3,000   Elizabethice al   9/26/2014   Route 35, Markolek