



Agenda Date: 2/28/18
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/

RELIABILITY & SECURITY

IN THE MATTER OF ALLEGED VIOLATIONS OF THE)
UNDERGROUND FACILITY PROTECTION ACT,)
N.J.S.A. 48:2-73 ET SEQ.)
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)
)
)
ORDER ACCEPTING SETTLEMENTS
DOCKET Nos. GS18010035K, et al.
(see attached appendix)

Parties of Record:

- William J. Horzempa, William J. Horzempa, Inc.**
- Robert Ross, Lacina Homes LLC**
- Michael Donohue, PSE&G**
- Nick Depoto, Elizabethtown Gas**
- Kurt J. Wehner, Jr., Pipe Dreams Mechanical LLC**
- Fernando Cunha, Universal Electric Corp.**
- Michael Elward Esq., J. F. Kiely Construction Co.**
- Joao Medeiros, JO-MED Contracting Corp.**
- William Tappin, South Jersey Gas**
- Joseph Longo, Abatare Builders, Inc.**
- Johnathan Beer, Two Rivers Construction LLC**
- Thomas Polistina, South Masonry and Concrete LLC**
- John G. Petrowski, Brant Beach Plumbing & Heating**
- Denise DeAlneida, C & S Foundations, Inc.**
- Robert Roeder, RNR Contractors, Inc.**
- Sylvia Del Vecchio, Verizon**
- Roger Shaffer, NJ American Water**
- Donald Richards, Jersey Central Power and Light**
- Vincent Catoggio, A&C Underground Lawn Sprinkler, Inc.**
- David Vedral, Dave's Quality Electric, LLC**
- Nicholas Aerisegeo, Nick Aerisegeo & Sons Landscaping, LLC**
- Ralph Serpe, Kemsco Construction & Equipment Co. Inc.**
- Laurence Pesce, L.J. Pesce, LLC**
- Matthew Esposito, Esposito Construction, LLC**
- Andrew Shawl, F. W. Shawl & Sons, Inc.**

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 ..." 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).

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 **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 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.

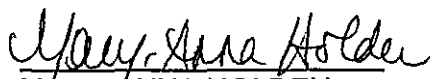
This Order shall be effective on March 10, 2018.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

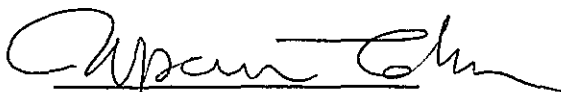
DATED: 2/28/18

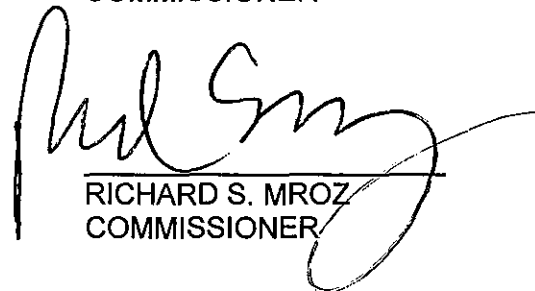
BOARD OF PUBLIC UTILITIES
BY:


JOSEPH L. FIORDALISO
PRESIDENT


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER


RICHARD S. MROZ
COMMISSIONER

ATTEST: 
AIDA CAMACHO-WELCH
SECRETARY

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

**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 NO. GS18010035K et. al. (see attached appendix)**

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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- February 2018

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS18010035K	GOC2014-0105	DID NOT HAVE A VALID MARKOUT	\$3,000		William J. Horzempa, Inc.	4/5/2014	2nd Ave., Spring Lake	1/15/2018
Damage, Gas	GS18010036K	GOC2014-1000	DID NOT HAVE A VALID MARKOUT	\$3,000		Lacina Homes LLC	10/15/2014	Ives Ct., Monroe	12/13/2017
Damage, Gas	GS18010037K	GOC2015-0304	DID NOT PROPERLY MARK	\$3,000	PSE&G		3/17/2015	Valley Rd., Montclair	11/20/2017
Damage, Gas	GS18010038K	GOC2015-0354	DID NOT PROPERLY MARK	\$3,000	PSE&G		4/2/2015	Bailey Rd., River Vale	11/20/2017
Damage, Gas	GS18010039K	GOC2015-0463	DID NOT PROPERLY MARK	\$3,000	Elizabethtown Gas		5/13/2015	Iverness Terr., Fords	12/1/2017
Damage, Gas	GS18010040K	GOC2015-0473	DID NOT PROPERLY MARK	\$3,000	PSE&G		5/12/2015	Woodmere Dr., Summit	11/20/2017
Damage, Gas	GS18010041K	GOC2016-0039	DID NOT HAVE A VALID MARKOUT	\$3,000		Pipe Dreams Mechanical LLC	1/7/2016	Ocean Pathway, Ocean Grove	11/22/2017
Damage, Gas	GS18010042K	GOC2016-0125	DID NOT PROPERLY MARK	\$3,000	Elizabethtown Gas		2/26/2016	Bailey Ave., Hillside	12/1/2017
Damage, Gas	GS18010043K	GOC2016-0223	DID NOT HAVE A VALID MARKOUT	\$3,000		Universal Electric Corp.	3/22/2016	Bellair Pl., Newark	12/22/2017
Damage, Gas	GS18010044K	GOC2016-0243	DID NOT PROPERLY MARK	\$3,000	Elizabethtown Gas		4/1/2016	Watson Ave., Perth Amboy	12/1/2017
Damage, Gas	GS18010045K	GOC2016-0325	FAILURE TO USE REASONABLE CARE	\$3,000		JF Kiely Construction Co.	4/6/2016	Club Pl., Freehold	10/26/2017
Damage, Gas	GS18010046K	GOC2016-0519	FAILURE TO HAND DIG AND LOCATE	\$3,000		JO-MED Contracting Corp.	5/20/2016	Washington Street, Morristown	10/5/2017
Damage, Gas	GS18010065K	GOC2016-0350	DID NOT PROPERLY MARK	\$3,000	South Jersey Gas		2/27/2014	Stone Harbor Blvd., Middle Township	1/10/2018
Damage, Gas	GS18010066K	GOC2016-0334	DID NOT HAVE A VALID MARKOUT	\$3,000		Abatare Builders, Inc.	4/24/2015	Main St., Belmar	1/15/2018
Damage, Gas	GS18010067K	GOC2016-0033	DID NOT HAVE A VALID MARKOUT	\$3,000		Two Rivers Construction LLC	4/14/2016	Grand Tour, Highlands	1/1/2018
Damage, Gas	GS18010068K	GOC2015-0437	DID NOT HAVE A VALID MARKOUT	\$3,000		South Masonry and Concrete LLC	4/12/2016	Wesley Ave., Ocean City	1/12/2018
Damage, Gas	GS18010069K	GOC2016-0372	DID NOT PROPERLY MARK	\$3,000	PSE&G		4/6/2016	Graham Terr., Montclair	11/20/2017
Damage, Gas	GS18010070K	GOC2016-0391	DID NOT PROPERLY MARK	\$3,000	Elizabethtown Gas		4/27/2016	Post Blvd., MAINE, Carteret	12/1/2017
Damage, Gas	GS18010071K	GOC2016-0395	DID NOT PROPERLY MARK	\$3,000	Elizabethtown Gas		4/25/2016	Hillside Ave., Hillside	12/1/2017
Damage, Gas	GS18010072K	GOC2016-0437	DID NOT HAVE A VALID MARKOUT	\$1,000		Brant Beach Plumbing and Heating	4/20/2016	E. 29th St., Ship Bottom	10/31/2017
Damage, Gas	GS18010073K	GOC2016-0470	DID NOT PROPERLY MARK	\$3,000	PSE&G		5/9/2016	Park Ave., Madison	11/27/2017
Damage, Gas	GS18010074K	GOC2016-0527	DID NOT HAVE A VALID MARKOUT	\$3,000		C&S Foundations, Inc.	5/12/2016	Truman Drive, Wood-Ridge	1/4/2018
Damage, Gas	GS18010075K	GOC2016-0731	DID NOT HAVE A VALID MARKOUT	\$3,000		RNR Contractors, Inc.	6/18/2016	Nina Ct., Monroe Twp.	1/9/2018
Damage, Gas	GS18010076K	GOC2016-0737	DID NOT PROPERLY MARK	\$3,000	South Jersey Gas		6/23/2016	E. Maple St., Wenonah	1/10/2018
Non-damage	TS18010077K	NOC2017-0029	DID NOT PROPERLY MARK	\$3,000	Verizon		11/17/2017	Center St., Freehold	12/22/2017
Non-damage	TS18010078K	NOC2017-0030	DID NOT PROPERLY MARK	\$3,000	Verizon		11/21/2017	Bolton Rd., East Windsor	12/22/2017

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Bureau of One Call - Settlements -APPENDIX- February 2018

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Non-damage	TS18010082K	NOC2017-0031	DID NOT PROPERLY MARK	\$3,000	Verizon		11/21/2017	Canterbury Ct., East Windsor	12/22/2017
Non-damage	TS18010081K	NOC2017-0032	DID NOT PROPERLY MARK	\$3,000	Verizon		11/20/2017	Passaic River, Newark	12/22/2017
Non-damage	TS18010084K	NOC2017-0033	DID NOT PROPERLY MARK	\$3,000	Verizon		11/28/2017	Broadway, Hammonton	12/22/2017
Non-damage	TS18010083K	NOC2017-0034	DID NOT PROPERLY MARK	\$3,000	Verizon		11/29/2017	Lenni Path, Hamilton	12/22/2017
Non-damage	TS18010085K	NOC2017-0035	DID NOT PROPERLY MARK	\$3,000	Verizon		11/16/2017	Main Street, Peapack Gladstone	12/22/2017
Non-damage	TS18010086K	NOC2017-0036	DID NOT PROPERLY MARK	\$3,000	NJ American Water		12/6/2017	Snowdrift Dr., Piscataway	12/29/2017
Non-damage	WS18010087K	NOC2017-0037	DID NOT PROPERLY MARK	\$3,000	NJ American Water		12/6/2017	Woodlake Dr., Piscataway	12/29/2017
Non-damage	WS18010088K	NOC2017-0038	DID NOT PROPERLY MARK	\$3,000	NJ American Water		12/5/2017	Old New Brunswick Rd., Piscataway	12/29/2017
Non-damage	WS18010089K	NOC2017-0039	DID NOT PROPERLY MARK	\$3,000	NJ American Water		12/4/2017	Ridgeway St., Union	12/29/2017
Non-damage	WS18020094K	NOC2017-0042	DID NOT PROPERLY MARK	\$3,000	NJ American Water		11/30/2017	River Rd., Piscataway	12/29/2017
Non-damage	WS18020095K	NOC2017-0043	DID NOT PROPERLY MARK	\$3,000	NJ American Water		12/6/2017	Sunburst Ln., Piscataway	12/29/2017
Non-damage	WS18020096K	NOC2017-0044	DID NOT PROPERLY MARK	\$3,000	NJ American Water		12/6/2017	Woodlake Dr., Piscataway	12/29/2017
Non-damage	WS18020097K	NOC2017-0045	DID NOT PROPERLY MARK	\$3,000	NJ American Water		12/4/2017	St. Rt. 35, Ocean	12/28/2017
Non-damage	WS18020098K	NOC2017-0046	DID NOT PROPERLY MARK	\$3,000	NJ American Water		12/4/2017	Pequest Rd., White	12/27/2017
Non-damage	WS18020099K	NOC2017-0047	DID NOT PROPERLY MARK	\$3,000	NJ American Water		12/4/2017	Scudder Mills Rd., Plainsboro	12/27/2017
Non-damage	WS18020100K	NOC2017-0048	DID NOT PROPERLY MARK	\$3,000	NJ American Water		12/11/2017	Adam Dr., Cranbury	12/27/2017
Non-damage	WS18020101K	NOC2017-0049	DID NOT PROPERLY MARK	\$3,000	NJ American Water		11/29/2017	Devonshire Dr., Westampton	12/26/2017
Non-damage	WS18020102K	NOC2017-0050	DID NOT PROPERLY MARK	\$3,000	South Jersey Gas		12/11/2017	Howard Ave., East Greenwich	1/5/2018
Non-damage	GS18020103K	NOC2017-0051	DID NOT PROPERLY MARK	\$3,000	PSE&G		11/21/2017	Probasco Rd., East Windsor	12/12/2017
Non-damage	GS18020107K	NOC2017-0052	DID NOT PROPERLY MARK	\$3,000	JCP&L		11/21/2017	Canterbury Ct., East Windsor	12/13/2017
Non-damage	ES18020104K	NOC2017-0053	DID NOT PROPERLY MARK	\$3,000	JCP&L		12/5/2017	Shy Creek Rd., Alexandria	12/21/2017
Non-damage	ES18020105K	NOC2017-0054	DID NOT PROPERLY MARK	\$3,000	JCP&L		11/21/2017	Bolton Rd., East Windsor	12/13/2017
Non-damage	ES18020106K	NOC2017-0055	DID NOT PROPERLY MARK	\$3,000	JCP&L		11/17/2017	Woodlake Dr., Sayreville	12/14/2017
Non-damage	ES18020108K	NOC2017-0057	DID NOT PROPERLY MARK	\$3,000	PSE&G		11/21/2017	Canterbury Ct., East Windsor	12/12/2017
Non-damage	ES18020121K	NOC2017-0058	DID NOT PROPERLY MARK	\$3,000	JCP&L		11/17/2017	Probasco Rd., East Windsor	12/13/2017
Non-damage	ES18020122k	NOC2017-0059	DID NOT PROPERLY MARK	\$3,000	JCP&L		11/22/2017	Lakewood Rd., Plumstead	12/13/2017

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Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Non-damage	ES18020123K	NOC2017-0060	DID NOT PROPERLY MARK	\$3,000	JCP&L		11/27/2017	Lindsley Rd., Harding	12/13/2017
Non-damage	ES18020124K	NOC2017-0061	DID NOT PROPERLY MARK	\$3,000	JCP&L		11/21/2017	Canterbury Ct., East Windsor	
Non-damage	ES18020125K	NOC2017-0062	DID NOT PROPERLY MARK	\$3,000	JCP&L		11/17/2017	Woodlake Dr., Sayreville	12/13/2017
Non-damage	ES18020126K	NOC2017-0063	DID NOT PROPERLY MARK	\$3,000	JCP&L		11/17/2017	Center St., Freehold	12/13/2017
Damage, Gas	GS18020142K	GOC2017-0876	DID NOT HAVE A VALID MARKOUT	\$3,000		A&C Underground Lawn Sprinkler, Inc.	7/19/2017	River Rd., North Bergen	1/17/2018
Damage, Gas	GS18020143K	GOC2016-1391	DID NOT HAVE A VALID MARKOUT	\$3,000		Dave's Quality Electric, LLC	9/22/2016	N. New Jersey, Atlantic City	11/21/2017
Damage, Gas	GS18020144K	GOC2016-1398	DID NOT HAVE A VALID MARKOUT	\$3,000		Nick Aerisegeo & Sons Landscaping, LLC	9/20/2016	E. Shore Rd., Denville	10/19/2017
Damage, Gas	GS18020141K	GOC2016-1478	DID NOT PROPERLY MARK	\$3,000	South Jersey Gas		10/12/2016	Fletcher Blvd., Winslow	1/10/2018
Damage, Gas	GS18020140K	GOC2016-1659	DID NOT PROPERLY MARK	\$3,000	South Jersey Gas		11/14/2016	Pacific Ave., Wildwood	1/10/2018
Damage, Gas	GS18020139K	GOC2016-1786	DID NOT PROPERLY MARK	\$3,000	PSE&G		12/14/2016	Orchard Rd., Maplewood	11/20/2017
Damage, Gas	GS18020137K	GOC2016-1811	DID NOT PROPERLY MARK	\$3,000	PSE&G		12/15/2016	Avenue C, Haledon	11/21/2017
Damage, Gas	GS18020138K	GOC2016-1841	DID NOT PROPERLY MARK	\$3,000	PSE&G		12/22/2017	Ryerson Ave., Haledon	11/21/2017
Damage, Gas	GS18020135K	GOC2016-1843	DID NOT HAVE A VALID MARKOUT	\$3,000		Kemsco Construction & Equipment Co. Inc.	12/28/2016	Hook Rd., Bayonne	1/8/2018
Damage, Gas	GS18020136K	GOC2016-1848	DID NOT HAVE A VALID MARKOUT	\$3,000		L.J. Pesce, LLC	12/15/2016	Old Mill Rd., Marlboro	1/3/2018
Damage, Gas	GS18020133K	GOC2016-1854	FAILURE TO USE REASONABLE CARE	\$3,000		Esposito Construction, LLC	12/20/2016	Ridge rd., Brick	1/3/2018
Damage, Gas	GS18020134K	GOC2016-1876	DID NOT HAVE A VALID MARKOUT	\$3,000		F. W. Shawl & Sons, Inc.	12/28/2016	Landis Ave., Sea Isle City	1/10/2018
Total		68		\$202,000					