



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

DIVISION OF RELIABILITY
AND SECURITY

IN THE MATTER OF ALLEGATIONS OF VIOLATIONS)
OF PIPELINE SAFETY REGULATIONS AND THE)
UNDERGROUND FACILITY PROTECTION ACT BY)
PUBLIC SERVICE ELECTRIC & GAS COMPANY, WITH)
RESPECT TO AN INCIDENT IN BERGENFIELD, NEW)
JERSEY ON DECEMBER 13, 2005)

ORDER ADOPTING
SETTLEMENT

DOCKET NO. GO07050327

AND

IN THE MATTER OF ALLEGATIONS OF VIOLATIONS)
OF THE UNDERGROUND FACILITY PROTECTION)
ACT BY ATS, WITH RESPECT TO AN INCIDENT IN)
BERGENFIELD, NEW JERSEY ON DECEMBER 13,)
2005)
)

DOCKET NO. GO07050326

(SERVICE LIST ATTACHED)

BY THE BOARD:

This matter has been open to the Board following an investigation of the natural gas explosion and fire that occurred at a residential apartment building, located at 30 Elm Street, Bergenfield, New Jersey on December 13, 2005. As a result of the explosion and subsequent fire, there were three fatalities, four serious injuries and the building was totally destroyed. The National Transportation Safety Board ("NTSB") conducted an investigation, with the State of New Jersey Board of Public Utilities ("Board") included as a party to that proceeding. The NTSB final report with recommendations was released on June 5, 2007.

The Board's One Call Bureau and the Bureau of Pipeline Safety performed a joint investigation of the incident and found probable cause that the natural gas service line to the apartment building had been damaged as the result of excavation activity by a contractor, Superior Tank Company, Inc., doing business as American Tank Services ("ATS") hired to remove an underground oil tank located in a paved area adjacent to the building. The investigation identified probable violations of the New Jersey Underground Facility Protection Act, N.J.S.A. 48:2-73 et. seq. ("One Call Law") by ATS including its alleged failure to plan an excavation to avoid damage and minimize interference with an underground gas facility, and its alleged failure

to use reasonable care in performing the excavation. On November 2, 2006, Board Staff issued a notice of the alleged violations to ATS.

The investigation also identified several probable violations of the Federal Pipeline Safety Regulations, CFR Title 49, Part 192, (Minimum Pipeline Safety Standards) by Public Service Gas & Electric Company ("PSE&G") including alleged deficiencies with the actions of PSE&G relating to this excavation, its dispatching and emergency response practices and procedures, and its mandatory training program for local officials and emergency responders. In addition, Board Staff identified a probable violation of the One Call Law by PSE&G as it appeared that the utility initially failed to accurately mark-out the gas line on or about December 9, 2005. This condition, however, did not contribute to the gas service line being damaged, as the line was remarked accurately on the day that ATS commenced the excavation activity. On November 28, 2006, Board Staff issued a notice of the alleged violations to PSE&G.

Upon notification of the alleged violations, PSE&G and ATS entered into negotiations with Board Staff as to a possible settlement of the allegations. On May 1, 2007, a Stipulation and Settlement Agreement was entered into by ATS and Board Staff. On May 1, 2007, a Stipulation and Settlement agreement was entered into by PSE&G and Board Staff.

The Stipulation and Settlement Agreements of PSE&G and Board Staff, and ATS and Board Staff, are attached as Appendix A and Appendix B, respectively. The documents provide agreements as to any and all claims arising from or related to this incident.

Pursuant to its agreement, PSE&G, without admitting to any violation of law or wrongdoing, will provide a one-time payment to the Treasurer of the State of New Jersey in the amount of \$250,000 and will spend an additional \$100,000, within one year of the date of this Order, on advertising and education for 811, the National One-Call mark-out telephone number and damage prevention. The terms of PSE&G's settlement with Board Staff require remediation of several practices by PSE&G prior to December 31, 2007, including improvement of the training procedures for mark-out personnel, amendment of its gas distribution standards and gas distribution procedures, and modification of PSE&G's Police, Fire and Office of Emergency Management Liaison Program. PSE&G will provide written certification to the Board on a quarterly basis, indicating the status of the required improvements.

ATS' settlement agreement requires ATS to provide a one-time payment of \$40,000 to the Treasurer of the State of New Jersey. Its agreement to pay this sum is not an acknowledgement of non-compliance with law. Additionally, Staff recommended and the Board has proposed amendments to One Call regulations in connection with the readoption of N.J.A.C. 14:2-1.1 et seq., to address excavation and trench shoring, among other excavation considerations. See proposed regulations N.J.A.C. 14:2-3.3, 14:2-3.4, 14:2-3.5 and 14:2-4.2. These proposals were published at 39 N.J.R. 1232(a) (April 2, 2007). Therefore, issues related to ATS' performance relative to underground facility protection are being addressed in the proposed rulemaking. Staff also may make further rule proposal recommendations to the Board after further review of the NTSB recommendations, if appropriate.

The Board has reviewed the Stipulation and Settlement Agreements and HEREBY FINDS each to be a reasonable settlement of the outstanding issues, in the public interest, in accordance with law and in accordance with the intent and purpose of the Underground Facility Protection Act and the Federal Pipeline Safety Regulations. Therefore, the Board HEREBY ADOPTS the Stipulation and Settlement Agreements as its own, incorporating by reference the terms and

conditions therein as if fully set forth at length herein. Accordingly, the Board HEREBY ORDERS PSE&G and ATS to comply with the terms of the Stipulation and Settlement Agreements as presented. Additionally, the Board HEREBY ORDERS ATS to submit to the Board within 60 Days a plan for compliance with the NTSB recommendations for establishing and implementing written procedures for safe excavation near pipelines and providing initial and recurrent training on these procedures to employees.

PSE&G and ATS shall comply with all relevant law and regulations, including any One Call and other regulations that may hereafter be adopted by the Board, including, but not limited to, regulations adopted as a result of the pending proposed regulations and any such regulations as may be adopted in response to the NTSB report and recommendations.

DATED: 6/20/07

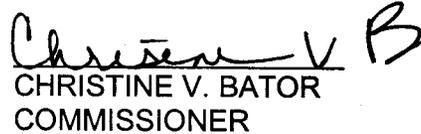
BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


CONNIE O. HUGHES
COMMISSIONER

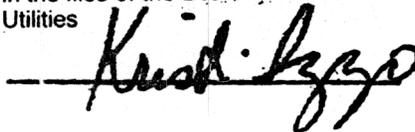

JOSEPH L. FIORDALISO
COMMISSIONER


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



SERVICE LIST

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Edward Lihan, Acting Chief
Bureau of Pipeline Safety

Douglas Ziemba, Chief
Bureau of One Call

one-time payment of two hundred fifty thousand dollars (\$250,000) to the Treasurer of the State of New Jersey. The Board shall dismiss all claims it may have against the Company regarding violations of the Applicable Laws in connection with the Incident. No later than thirty (30) days after the date that the Board enters an order approving this Stipulation, PSE&G will send a check for two hundred fifty thousand dollars (\$250,000) payable to the Treasurer, State of New Jersey to Joseph J. Potena, Chief Fiscal Officer, Board of Public Utilities, 44 South Clinton Avenue, 7th floor, P.O. Box 350, Trenton, New Jersey 08625. A copy of this check shall be provided to Babette Tenzer, Deputy Attorney General, Department of Law and Public Safety, 124 Halsey Street, 5th Floor, Newark, New Jersey 07101.

2. In addition to the \$250,000 payment referenced above, the Company shall expend the sum of one hundred thousand dollars (\$100,000), to be spent on advertising /education for 811, the National One-Call markout number and damage prevention within one (1) year after the date that the Board enters an order approving this Stipulation.. These projects will be developed by the Company subject to the concurrence of Staff. These expenditures are in addition to any money currently budgeted for this initiative.

3. PSE&G agrees that it will not seek to recover any portion of this three hundred fifty thousand dollars (\$350,000) from ratepayers.

4. PSE&G's agreement to pay the foregoing sums is not an acknowledgment of non-compliance with any law, including the Applicable Laws, Board Orders, or Board requirements. The payment is made as part of a negotiated stipulation intended to resolve the claims of the respective parties without further litigation.

5. In addition, PSE&G hereby agrees to take the following measures:

- a. No later than December 31, 2007, PSE&G will amend its mark-out personnel training procedures to more specifically address the repair or removal of utility facilities and underground tanks in close proximity to PSE&G's underground gas facilities.
- b. PSE&G will amend its Gas Distribution Standards ("GDS") to more specifically address the following with respect to high risk excavations that PSE&G is made aware of:
 1. Factors to address (i) excavations parallel to or in close proximity to an existing underground gas facility (ii) deep excavations for the repair or removal of other utility facilities and oil tanks (iii) excavations that meet the requirements for the use of shoring materials or other measures to support the excavation in order to provide for the protection of underground gas facilities; and (iv) onsite meetings with excavators.
 2. Inspections of pipelines at a frequency to verify the integrity of the pipeline including (i) to check access to applicable gas valves that would be utilized in the event of a gas emergency and (ii) to

establish emergency contact information with the excavator in case of facility damage.

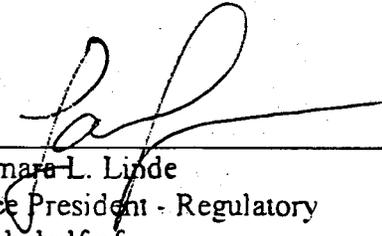
3. Procedure for continuing surveillance of PSE&G's underground gas facilities to determine and take appropriate action concerning other unusual operating and maintenance conditions, including appropriate factors to determine the need for inspection or surveillance of excavation activities.
- c. PSE&G will amend its Gas Dispatch Procedures to more specifically address the following:
 1. Enable multiple resources to be dispatched for facility damage with reported leaking gas.
 2. Provide training for dispatchers to expedite dispatch orders for facility damage with reported leaking gas in a quick and efficient manner. Develop a "quick questions card" for dispatchers to use to gather information needed for facility damage calls with reported leaking gas. Use lessons learned from Incident to develop training and procedure improvements.
 - d. Modify PSE&G's Police, Fire and Office of Emergency Management Liaison Program, as described in PSE&G's Gas Emergency Procedural Manual, to (1) provide for positive response of receipt of annual mutual assistance letter. Specifically, where an annual mutual assistance letter is returned to PSE&G as undeliverable, PSE&G will follow up with emergency agency as appropriate to ensure receipt of annual mutual assistance letter. In addition, prior to any mutual assistance meeting, PSE&G will contact any emergency agency that did not respond to its written request for attendance confirmation; and (2) to the extent an invited emergency agency does not participate in PSE&G's emergency awareness meetings, PSE&G will mail meeting materials to such agency within a two-week period. PSE&G will offer regional follow-up emergency awareness meetings for any invited emergency agencies that do not participate in PSE&G emergency awareness meetings for two consecutive years.
 - e. Provide written notification to the Board indicating the status of the improvements on a quarterly basis, including when PSE&G has completed these process improvements.
6. PSE&G's participation in this Stipulation is neither an admission of any violation of Applicable Law or wrongdoing by PSE&G, and does not constitute any admission of liability.
 7. The parties agree that the terms of this Stipulation shall not be cited or otherwise used by or against each other or other parties or argued as binding or persuasive

precedent in this or any other forum, except in any proceeding to enforce the Stipulation or the terms and conditions thereof and/or the Board Order adopting this Stipulation.

8. Should PSE&G default in either paying or spending the amounts set forth in paragraph 1 or 2 above, or in implementing the process improvement measures set forth in paragraph 5 above, the Board shall be entitled to enter a judgment in the Superior Court of New Jersey, or other appropriate forum against PSE&G and to take such steps as it deems reasonable to collect the amount due plus interest thereon and to otherwise enforce this Stipulation.
9. After this Stipulation has been fully executed, it shall be presented to the Board for approval.
10. Upon approval of this Stipulation by the Board, it shall then constitute the entire agreement between the Staff and PSE&G with respect to the incident and the above referenced matters, including the Notices, and shall operate as a complete and final disposition of the investigation by the Board subject only to the fulfillment of all the provisions of this Stipulation.
11. This Stipulation may not be amended in any way, or any part of its provisions waived, except by writing executed by all the parties to this Stipulation. In the event the Board modifies any provision of this Stipulation, absent express written consent of the parties, the Stipulation shall be void and the parties shall be restored to their positions prior to the execution of the Stipulation.
12. This Stipulation may be executed in as many counterparts as there are signatures, thereof, each of which shall be an original, but all of which shall constitute one and the same instrument. No amendment or waiver of any substantive provision of this Stipulation shall be effective unless it is agreed to by the authorized representative of each party hereto.
13. This Stipulation shall be governed by, and construed in accordance with the laws of the State of New Jersey.

NOW, THEREFORE, The Parties cause this Stipulation to be executed by their duly authorized officers or officials.

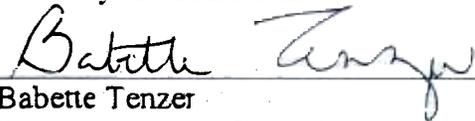
By:



Tamara L. Linde
Vice President - Regulatory
On behalf of
Public Service Electric and Gas Company

Dated: April 30, 2007

Stuart Rabner
Attorney General of New Jersey
Attorney for Board Staff



Babette Tenzer
Deputy Attorney General

Dated 5/1/07

GO 07050326

SUPREME TANK COMPANY, INC., d/b/a
AMERICAN TANK SERVICES,

STIPULATION AND SETTLEMENT
AGREEMENT

BERGENFIELD, N.J. INCIDENT

DECEMBER 13, 2005

This Stipulation and Agreement of Settlement ("Stipulation") is entered into by and between the New Jersey Board of Public Utilities Staff and Supreme Tank Company, Inc., d/b/a American Tank Services ("ATS" or "Company") as of this 19th day of April, 2007;

WHEREAS, on December 13, 2005 an explosion occurred at an apartment building located at 30 Elm Street, Bergenfield, New Jersey related to the ignition of natural gas released from a damaged natural gas service line by an unknown ignition source (the "Incident"); and

WHEREAS, the One Call Bureau (collectively "Staff") of the New Jersey Board of Public Utilities (the "Board") commenced an investigation of the Incident and an evaluation of ATS' compliance with applicable laws, rules and regulations pertaining to natural gas facilities, including the Underground Facility Protection Act (collectively "Applicable Laws"); and

WHEREAS, as part of the investigation, the Staff advised ATS that they had found certain probable violations of Applicable Laws; and

WHEREAS, on November 28, 2006 the Staff issued a Notice of Probable Violations ("Notice"); and

WHEREAS, the parties have reached an agreement to resolve any and all claims the Board and/or Staff may have against the Company arising from or relating to the Incident, including the Notice listed above, in a comprehensive settlement in accordance with the terms of this Stipulation. Each party agrees that this Stipulation represents a fair and reasonable settlement of all issues that were or could have been raised in regard to the Incident, the Notices issued, and/or the Board's subsequent investigations; and

WHEREAS, the resolution of this matter through the adoption of the stipulated positions set forth herein best serves the interest of the parties, supports

judicial economy and preserves valuable judicial, administrative and corporate resources, and is therefore in the public interest.

NOW THEREFORE, the parties agree as follows:

1. As a compromise of civil penalties for alleged probable violations of Applicable Laws, the Company, without any admission of any violation of law or wrongdoing, shall make a one-time payment of forty thousand dollars (\$40,000.00) to the Treasurer of the State of New Jersey. The Board and/or Staff shall dismiss and release all claims they may have against the Company regarding violations of the Applicable Laws in connection with the Incident. No later than thirty (30) days after the date that the Board enters an order approving this Stipulation, ATS will send a check for forty thousand dollars (\$40,000.00) payable to the Treasurer, State of New Jersey to Joseph J. Potena, Chief Fiscal Officer, Board of Public Utilities, 44 South Clinton Avenue, 7th floor, P. O. Box 350, Trenton, New Jersey 08625. A copy of this check shall be provided to Elise Goldblat, Deputy Attorney General, Department of Law and Public Safety, 124 Halsey Street, 5th Floor, Newark, New Jersey 07101.

2. ATS' agreement to pay the foregoing sums is not an acknowledgement of non-compliance with any law, including the Applicable Laws, Board Orders, or Board requirements. The payment is made as part of a negotiated stipulation intended to resolve the claims of the respective parties without further administrative litigation proceedings.

3. The Board, Staff, and ATS agree that none of the foregoing agreements, statements, findings and actions taken by the Company shall be deemed an admission by the Company of a violation of any law, including Applicable Laws, Board Orders, or Board requirements, or an admission of the allegations contained within the Notice or in the payment made in this matter. The parties understand and acknowledge that the legal standards and procedures involved in these administrative proceedings are not necessarily the same as those involved in civil litigation, and agree that the agreements, statements, findings and actions taken herein are made solely for the purpose of compromising and settling this administrative matter amicably to avoid protracted and expensive litigation, and are not admissible and are not intended to be used in any judicial or administrative forum for any other purpose whatsoever, except for proceedings brought by Staff or the Board to enforce their rights under this Stipulation and Settlement Agreement and the Board Order adopting same. It is specifically understood by ATS, Staff, and the Board that the compromise and settlement of these administrative proceedings does not constitute an admission or a finding of civil liability or responsibility of any kind in any litigation including but not limited to civil personal injury or wrongful death actions, and such civil liability or responsibility is specifically denied by the Company

4. Should ATS default in paying the amounts set forth in paragraph 1, the Board shall be entitled to enter a judgment in the Superior Court of New Jersey, or

other appropriate forum, against ATS and take such steps as it deems reasonable to collect the amount due, plus interest thereon, and to otherwise enforce this Stipulation.

5. After this Stipulation has been fully executed, it shall be presented to the Board for approval.

6. Upon approval of this Stipulation by the Board, it shall then constitute the entire agreement between the BPU Staff and ATS with respect to the Incident and the above-referenced matter, including the Notice, and shall operate as a complete and final disposition of the investigation by the Board subject only to the fulfillment of all the provisions of this Stipulation.

7. This Stipulation may not be amended in any way, or any part of its provisions waived, except by a writing executed by all parties to this Stipulation. In the event the Board modifies any provision of this Stipulation, absent express written consent of the other parties, the Stipulation shall be void and the parties shall be restored to their positions prior to the execution of the Stipulation.

8. The Stipulation may be executed in as many counterparts as there are signatures thereof, each of which shall be an original, but all of which shall constitute one and the same instrument. No amendment or waiver of any substantive provision of this Stipulation shall be effective unless it is agreed to by the authorized representative of each party hereto.

9. This Stipulation shall be governed by, and construed in accordance with, the laws of the State of New Jersey.

NOW, THEREFORE, the Parties cause this Stipulation to be executed by their duly authorized officer or officials.



President
Supreme Tank Company, Inc.
d/b/a American Tank Services (ATS)

Dated April 19, 2007

Stuart Rabner
Attorney General of New Jersey
Attorney for the New Jersey Board of Public Utilities Staff

Todd C. Steadman
Deputy Attorney General

Dated:

3738609.1

NOW, THEREFORE, the Parties cause this Stipulation to be executed by their duty authorized officer or officials.

By: _____
President,
Supreme Tank Company, Inc.
d/b/a American Tank Services (ATS)

Dated: _____

Stuart Rabner
Attorney General of New Jersey
Attorney for the New Jersey Board of Public Utilities Staff

By: Babette Tenzer
Babette Tenzer
Deputy Attorney General

Dated: 5/1/07