



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu/](http://www.nj.gov/bpu/)**

**REALIABILITY & 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 WS08080698, 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. 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.<sup>1</sup> N.J.S.A. 48:2-86(c). 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.

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<sup>1</sup>N.J.S.A. 48:2-86(c) was amended effective July 27, 2007. For any violations that occurred prior to that date, the maximum penalty was \$25,000 per day and not to exceed \$500,000 for any related series of violations.

The Board operates a comprehensive underground damage prevention program comprised of enforcement, outreach, education, advertising and other activities designed to minimize risk to underground utility facilities throughout the State. The program is recognized by our Federal counterparts as being highly effective in reducing damage prevention and New Jersey is seen as a leader in this regard.

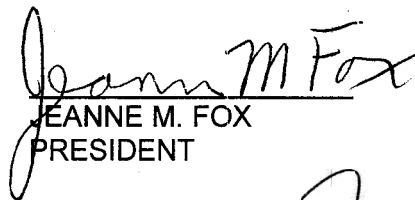
**NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED**

DATED:

10/23/08

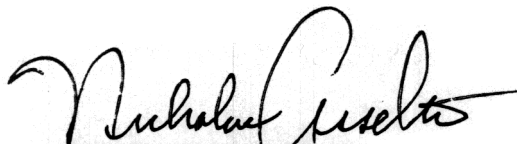
BOARD OF PUBLIC UTILITIES


BY:

  
JEANNE M. FOX  
PRESIDENT


  
FREDERICK F. BUTLER  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

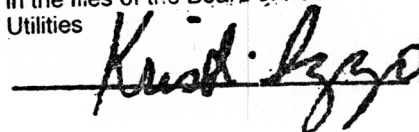
  
NICHOLAS ASSELTA  
COMMISSIONER

  
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	GS08080644	GOC2006-0132	Failure to use reasonable care	\$ 1,000		Liegel Construction*	10/25/2006	45 Lincoln Avenue, Aberdeen	1/14/2008
Damage, Gas	GS08080645	GOC2006-0140	did not hand dig and locate	\$3,000		New Jersey American Water*	12/20/2006	242 W. Bayview Dr., Toms River	1/23/2008
Damage, Gas	GS08080646	GOC2007-0019	Failure to Report Damage to Operator	\$3,000		Premier Landscapes & Sitework Constructors*	6/7/2007	145 Ebbetts Drive, Winslow Township	3/26/2008
Damage, Gas	GS08080647	GOC2007-0031	No Call	\$3,000		Buds Backhoe*	1/2/2007	Building 7 Emily Lane, Carteret	5/15/2008
Damage, Gas	GS08080648	GOC2007-0033	Did not properly mark out	\$3,000	New Jersey Natural Gas*		4/20/2007	29 & 30 Myrtle Drive, Dover	6/30/2008
Damage, Gas	GS08080649	GOC2007-0065	No Call	\$3,000		S & D Concrete, Corp.*	3/12/2007	54 Melbloom Lane, Edison	1/30/2008
Damage, Gas	GS08080650	GOC2007-0086	Did not properly mark out	\$3,000	South Jersey Gas*		2/28/2007	9610 Monmouth Avenue, Margate City	7/9/2008
Damage, Gas	GS08080651	GOC2007-0088	Did not properly mark out	\$3,000	South Jersey Gas*		3/5/2007	327 84th Street, Stone Harbor Boro	6/24/2008
Damage, Gas	GS08080652	GOC2007-0093	Did not properly mark out	\$3,000	South Jersey Gas*		3/20/2007	21 Bellevue Avenue, Hammonton	7/22/2008
Damage, Gas	GS08080653	GOC2007-0102	Did not properly mark out	\$6,000	PSE&G(G)*		1/8/2007	411 E. Palisades, Palisades Park/ Road closures	6/5/2008
Damage, Gas	GS08080654	GOC2007-0105	Failure to use reasonable care	\$1,000	United Water*		1/30/2007	135 Vreeland Avenue, Bergenfield	2/5/2008
Damage, Gas	GS08080655	GOC2007-0106	Did not properly mark out	\$3,000	PSE&G(G)*		2/1/2007	777 Scudders Mill, Plainsboro	7/14/2008
Damage, Gas	GS08080656	GOC2007-0123	No Call	\$3,000		Township of Burlington*	3/29/2007	Jacksonville Road, Burlington	7/22/2008
Damage, Gas	GS08080657	GOC2007-0124	Did not properly mark out	\$3,000	PSE&G(G)*		2/8/2007	1300 Vallee Drive, West Deptford	6/23/2008
Damage, Gas	GS08080658	GOC2007-0173	Did not properly mark out	\$3,000	Elizabethtown Gas*		9/7/2007	529 Court Street, Elizabeth	6/24/2008
Damage, Gas	GS08080659	GOC2007-0195	Did not use reasonable care	\$1,000		R. D. Zeuli, Inc.*	9/4/2007	614 Winding Way, Gloucester Township	7/10/2008
Damage, Gas	GS08080660	GOC2007-0204	Failure to Maintain & Preserve Markout	\$3,000		Atlantic City Sewer Company*	9/6/2007	1129 Drexel Avenue, Atlantic City	7/11/2008
Damage, Gas	GS08080661	GOC2007-0212	Failure to use reasonable care	\$1,000		J & E Enterprises*	8/27/2007	35 Charfont Lane, Manchester	6/23/2008
Damage, Gas	GS08080662	GOC2007-0224	Did not properly mark out	\$3,000	New Jersey Natural Gas*		9/4/2007	Rt 520, Lacey	6/30/2008
Damage, Gas	GS08080663	GOC2007-0248	Did not properly mark out	\$6,000	PSE&G(G)*		10/25/2007	405 US Highway 206, Hillsborough/Road closures	7/23/2008
Damage, Gas	GS08080664	GOC2007-0251	Did not properly mark out	\$3,000	New Jersey Natural Gas*		9/11/2007	9 Byrne Place, W. Keansburg	6/30/2008
Damage, Gas	GS08080665	GOC2007-0252	Did not properly mark out	\$3,000	New Jersey Natural Gas*		9/12/2007	6 Brookview Court, Holmdel	6/30/2008
Damage, Gas	GS08080666	GOC2007-0255	No Call	\$3,000		Onorati Construction*	9/12/2007	59 Barnsboro Road, Parsippany	6/20/2008
Damage, Gas	GS08080667	GOC2007-0258	No Call	\$3,000		Precision Fence*	9/12/2007	1124 C Long Beach Blvd., North Beach	6/20/2008
Damage, Gas	GS08080668	GOC2007-0259	Did not properly mark out	\$3,000	New Jersey Natural Gas*		9/12/2007	548 Herbert Lane, Brick	7/16/2008
Damage, Gas	GS08080669	GOC2007-0260	Did not properly mark out	\$3,000	New Jersey Natural Gas*		9/13/2007	W. Monroe High School, Bartley Road	6/30/2008
Damage, Gas	GS08080670	GOC2007-0273	Did not properly mark out	\$3,000	New Jersey Natural Gas*		9/20/2007	Rt. 520 Holmdel	6/30/2008
Damage, Gas	GS08080671	GOC2007-0279	Did not properly mark out	\$3,000	New Jersey Natural Gas Company*		9/21/2007	1290 Bay Avenue, Bayhead	6/30/2008
Damage, Gas	GS08080672	GOC2007-0280	Did not properly mark out	\$3,000	New Jersey Natural Gas Company*		9/21/2007	1296 Bay Avenue, Bayhead	6/30/2007
Damage, Gas	GS08080673	GOC2007-0285	Did not properly mark out	\$6,000	New Jersey Natural Gas Company*		11/21/2007	Intersec. Of River Rd., /High Str, Red Bank/Evacuations	7/9/2008

Damage Type	BPU Docket No.	One Call Docket No	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description	Payment Received
Damage, Gas	GS08080674	GOC2007-0288	Failure to Notify following Damage	\$6,000		E. Sambol*	11/20/2007	4 Arcaro Road, Manalapan/Road Closure & failure to notify operator of damage	7/7/2008
Damage, Electric	ES08080675	EOC2007-0003	Did not properly mark out	\$1,000	Jersey Central Power & Light*		10/9/2007	173 Kentucky Way, Freehold	10/9/2007
Damage, Electric	ES08080676	EOC2007-0006	Did not properly mark out	\$1,000	Jersey Central Power & Light*		9/13/2007	6 Dorchester Road, Annandale	7/21/2008
Damage, Water	WS08080677	WOC2007-0003	Did not properly mark out	\$2,000	United Water*		8/13/2007	69th Tonnelle Avenue, North Bergen/Road closure	3/20/2008
Damage, Water	WS08080678	WOC2007-0004	No Call	\$2,000		Barcia Brothers Fence Company*	12/19/2007	Main/Elm Street, New Milford	7/10/2008
Damage, Gas	GS08080679	GOC2008-0001	Did not properly mark out	\$3,000	New Jersey Natural Gas Company*		1/15/2008	First Financial Bank 783 Wayside Rd, Neptune Township	7/16/2008
Damage, Gas	GS08080680	GOC2008-0002	Did not use reasonable care	\$1,000		Jersey Construction Co.*	3/4/2008	Lacey Retail Center 2, Lacey Township	7/7/2008
Damage, Gas	GS08080681	GOC2008-0017	Did not use reasonable care	\$1,000		J. F. Kiely Construction*	5/6/2008	Southward Drive & Rt. 18, Old Bridge	6/20/2008
Damage, Electric	ES08080682	EOC2008-0001	No Call	\$2,000		Hawk Drilling, Inc.*	1/31/2008	211 Pennington Avenue, Passaic/Power interruption to hospital	7/9/2008
Damage, Electric	ES08080683	EOC2008-0002	Did not properly mark out	\$2,000	PSE&G(E)*		2/20/2008	44 Forest Hill Drive, Cherry Hill	7/14/2008
Damage, Electric	ES08080684	EOC2008-0003	Did not properly mark out	\$24,000	Jersey Central Power & Light*		3/7/2008	Main/Elm Street, New Milford/worker injury	8/6/2008
Damage, Electric	ES08080685	EOC2008-0004	Did not properly mark out	\$9,000	PSE&G(E)*		3/31/2008	12 Banner Road, Cherry Hill/"Fire"	7/14/2008
Damage, Telephone	TS08080686	TOC2008-0002	Did not properly mark out	\$6,000	Verizon*		4/14/2008	Hoes Lane, Piscataway/Major service interruption	6/18/2008
Damage, Telephone	TS08080687	TOC2008-0003	Did not properly mark out	\$1,000	Verizon*		4/9/2008	9 Grayson Circle, Willingboro	6/18/2008
Damage, Water	WS08080688	WOC2008-0001	No Call	\$1,000		EMPCO Contracting Inc.*	2/25/2008	Wakelee Road/Hardenburg Ave., Demarest	7/9/2008
Non Damage	AS08080689	OC#16-07	No Call	\$1,000		Appieview LLC*	4/20/2007	7009 River Road, North Bergen	4/3/2008
Non Damage	AS08080690	OC#32-07	No Call	\$6,000		Highway Safety Systems*	10/19/2007	Rt. 18 South, Milltown Road, East Brunswick/Repeat offender	7/11/2008
Non Damage	AS08080691	OC#33-07	No Call	\$3,000		Highway Safety Systems*	10/18/2007	Milltown Road to Rt. 18 North Ramp, East Brunswick/Repeat offender	7/11/2008
Non Damage	AS08080692	OC#3-08	did not start job in 3-10 days	\$6,000		Utility Pole Technologies*	1/8/2008	Various locations	7/11/2008
Non Damage	AS08080693	OC#6-08	Expired ticket	\$1,000		Rencor Inc.*	3/18/2008	Sheffield Avenue, Englewood	7/16/2008
Non Damage	WS08080694	OC#7-08	Did not properly mark out	\$1,000	Middlesex Water*		3/14/2008	13 Hollywood Drive, Woodbridge	7/1/2008
Non Damage	WS08080695	OC#8-08	Did not properly mark out	\$3,000	Middlesex Water*		3/12/08 - 3/14/08	175 Metuchen Avenue, Woodbridge	7/9/2008
Non Damage	WS08080696	OC#9-08	Flags not in accordance w/ regulations	\$1,000	Middlesex Water*		3/14/2008	175 Metuchen Avenue, Woodbridge	7/9/2008
Non Damage	ES08080697	OC#13-08	Did not properly mark out	\$6,000	PSE&G(E)*		4/14/2008	149 Bernard Avenue, Edison/6 days late	6/18/2008
Non Damage	GS08080698	OC#17-08	Did not properly mark out	\$3,000	Elizabethtown Gas*		5/20/2008	Industrial Avenue, Carteret	7/22/2008

\*Alleged Violators

Total Cases: 55

Total amount collected: \$184,000.00

Service List

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

Liegel Construction  
57 E. Front St.  
Keyport, NJ 07735

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

Verizon  
Sam Caldwell  
540 Broad Street  
Newark, NJ 07102

Frank Lovato, Premier Nursery & Gardens  
27 East Kennedy Street  
Hackensack, NJ 07601

Public Service Electric & Gas Company  
Willard Carey  
80 Park Plaza Mail Code T14  
Newark, NJ 07102

Elizabethtown Gas Company  
Mary Patricia Keefe  
One Elizabethtown Plaza  
PO Box 3175  
Union, NJ 07083-1975

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

Highway Safety Systems  
716 White Horse Pike  
Hammonton, NJ 08037

Buds Backhoe  
159 Wild Flower Pl.  
Delran, NJ 08075

S & D Concrete  
P.O. Box 480  
South River, NJ 08882

Jersey Central Power & Light Co.  
Sally Cheong  
300 Madison Avenue  
Morristown, NJ 07962

United Water Company  
60 De Voe Place  
Hackensack, NJ 07601

Township of Burlington  
851 Old York Rd.  
PO Box 340  
Burlington, NJ 08016

R.D. Zeuli  
PO Box 350  
West Berlin, NJ 08091

Atlantic City Sewer Department  
1200 Atlantic Avenue  
Atlantic City, NJ 08401

J & E Enterprises  
54 11<sup>th</sup> Street  
Toms River, NJ 08753

Onorati Construction  
16 Elcock Avenue  
Boonton, NJ 07005

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

Precision Fence  
20 Rt. 9  
Barnegat, NJ 08005

E. Sambol  
1933 N. Maple Avenue  
Toms River, NJ 08754

Barcia Brothers Fence Co.  
514 River Drive  
Garfield, NJ 07026

Jersey Construction Inc.  
PO Box 557  
Hammonton, NJ 08037

JF Kiely Construction  
700 McClellan Street  
Long Branch, NJ 07740

Hawk Drilling  
93 Cemetery Hill Road  
Washington, NJ 07882

Utility Pole Technologies, Inc.  
Rt. 2 Box 3710  
Albright, West Virginia 26519

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

Rencor, Inc.  
24 Tannery Road  
Somerville, NJ 08876

Middlesex Water Company  
Bob Fullagar  
1500 Ronson Road  
Iselin, NJ 08830

Appleview LLC  
c/o Dennis Oury  
411 Hackensack Avenue  
Hackensack, NJ 07601