



Agenda Date: 12/19/07
Agenda Item: 6A-2

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

RELIABILITY & SECURITY

IN THE MATTER OF ALLEGED VIOLATIONS)	DECISION AND ORDER
OF THE UNDERGROUND FACILITIES)	
PROTECTION ACT, <u>N.J.S.A. 48:2-73 et seq.</u>)	DOCKET NO. GS07110861K
BY NEW JERSEY NATURAL GAS COMPANY)	OC # 19-07

(SERVICE LIST ATTACHED)

BY THE BOARD:

The Board of Public Utilities ("Board") is vested with the jurisdiction to oversee the establishment and operation of the statewide New Jersey One-Call Damage and Prevention System ("One-Call System") under the authority granted by the Underground Facilities Protection Act ("UFPA") N.J.S.A. 48:2-73 et seq. The One Call System, as described in the UFPA, requires anyone who intends to engage in excavation or demolition to give advance notice to facility operators ("Operator(s)") prior to excavation to prevent facility damage and service outages. N.J.A.C. 14:2-3.1, et seq. An Operator must mark-out its underground facilities in compliance with the mark-out standards in N.J.A.C. 14:2-5.1 et seq. within three business days after receipt of the One Call System notice. N.J.A.C. 14:2-4.2.

New Jersey Natural Gas Company, an Operator, ("Operator") has contracted with UtiliQuest LLC to provide mark-out services on the Company's behalf. The Operator is required to ensure that all mark-outs are made in accordance with the UFPA. N.J.A.C. 14:2-4.2(b)(1).

Board Staff has determined that from the period of April 15, 2007 through May 21, 2007, the Operator, repeatedly failed to complete mark-outs within three business days resulting in multiple late or incomplete mark-outs. Board Staff directed the Operator to take corrective action, which included assigning additional personnel to complete all outstanding mark-outs.

On July 2, 2007, Board Staff forwarded the Operator a Notice of Alleged One-Call Violation for failure to comply with the UFPA. The violation is uncontested by the Operator. Board Staff has worked with the Operator to reach a settlement of the violation by requiring the implementation of a remediation plan and the payment of a monetary penalty.

On September 28, 2007, Board Staff received an executed settlement from the Operator, which is attached hereto as Exhibit A. On November 15, 2007, the Operator submitted a remediation plan which is attached as Exhibit B.

The Board has reviewed the settlement and HEREBY FINDS it to be a reasonable settlement of the outstanding issues, in the public interest, and in accordance with the law, including the UFPA. Therefore, the Board HEREBY ADOPTS the settlement and attached remediation plan as its own, incorporating by reference the terms and conditions therein as if fully set forth at length herein.

The Board has reviewed the remediation plan and HEREBY ORDERS that in addition to the procedures described in the attached remediation plan, within 30 days of this Order, the Operator shall implement a remediation plan that includes:

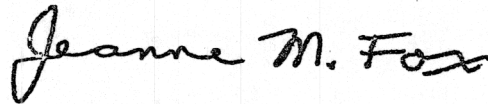
1. A backup system that utilizes the Operator's company staff or additional resources to complete daily mark-outs should the primary resource fail. A description of the backup process including the deployment mechanism shall be submitted to Board staff.
2. An in-house, daily monitoring process that ensures the quality and timeliness of work being performed by the contract vendor resource. A description of the monitoring process including the name, phone number and location of the staff members who are doing the monitoring shall be submitted to Board staff.
3. If the monitoring identifies outstanding mark-out requests, then the Operator shall deploy additional resources on an immediate basis to complete the outstanding mark-outs as required under the UFPA. A description of this implementation including the name and contact information of the Operator's staff person who will identify, assign and monitor the Operator's company resources to complete the outstanding mark-outs shall be submitted to Board staff.
4. The Operator shall begin the distribution and installation of promotional items in order to increase damage prevention awareness and help prevent underground damages. A plan and tracking report of this distribution must be submitted to Board staff.

The Board HEREBY ORDERS the Operator to pay a penalty of \$100,000.00. Such payment has been received by the Board in accordance with Exhibit A.

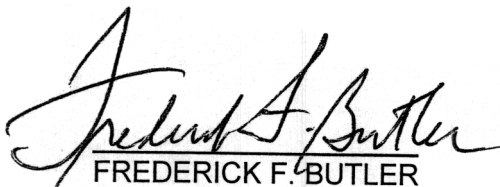
DATED:

12/21/07

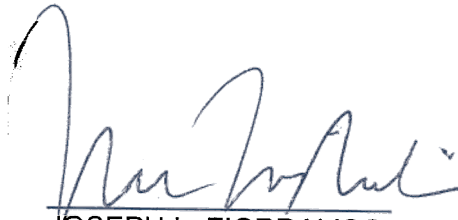
BOARD OF PUBLIC UTILITIES
BY:



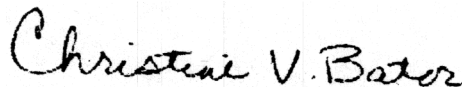
JEANNE M. FOX
PRESIDENT



FREDERICK F. BUTLER
COMMISSIONER

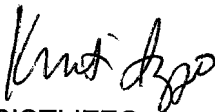


JOSEPH L. FIORDALISO
COMMISSIONER



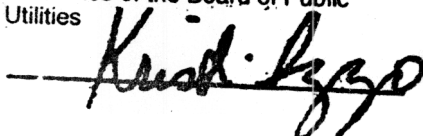
CHRISTINE V. BATOR
COMMISSIONER

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



Should you wish to accept this offer of compromise and settlement as outlined above, signify your agreement to the terms of this compromise offer by signing in the space provided below, and kindly send your check in the amount of **\$100,000**, made payable to: TREASURER, STATE OF NEW JERSEY, to:

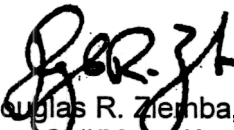
Joseph J. Potena
Chief Fiscal Officer
Board of Public Utilities
44 South Clinton Avenue - 7th Fl.
PO Box 350
Trenton, NJ 08625

You must write the OC Case Number, as indicated above on your check.

This offer of compromise and settlement made to you is without prejudice as to the position of the State of New Jersey or any agency or subdivision thereof if other violations are present. This offer of compromise is for settlement purposes only, and only applies to the specific incident listed herein.

If you do not accept this settlement offer within **30 days**, from the date of this letter, this offer shall be deemed withdrawn, and Board's staff will recommend that the Board institute formal enforcement proceedings. If you have any questions concerning this matter, please contact Phil Affinito at (973) 648-3400.

Very truly yours,

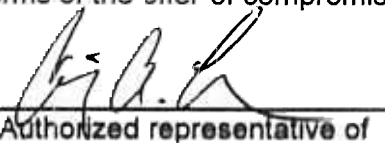


Douglas R. Ziernba, Sr. Chief Engineer
One Call/Meter Testing

DZ/vv

I hereby accept and consent to the terms of the offer of compromise and settlement as set forth herein.

Date:



Authorized representative of
New Jersey Natural Gas Co.
Craig A. Lynch, V.P.-Energy Delivery
OC#19-07

cc: Joseph J. Potena, CFO

CHECK NO. 507154
CHECK DATE 09/19/07
STUB 1 of 1

DETACH STATEMENT BEFORE DEPOSITING

INVOICE NUMBER	DATE	DESCRIPTION	GROSS AMOUNT	DEDUCTIONS	AMOUNT PAID
OC#19-07	07/02/07	OC#19-07	100,000.00		100,000.00
TOTALS			100,000.00		100,000.00

NJR
NJ Natural Gas
Wall, New Jersey 07719

PNC Bank, NA
JEANETTE, PA

117147

CHECK NO. 507154

DATE	AMOUNT
09/19/07	\$100,000.00

NOT VALID AFTER 180 DAYS

PAY *One hundred thousand and 00/100 Dollars*

TO THE ORDER OF: TREASURER STATE OF NEW JERSEY
JOSEPH J POTENA, CHIEF FISCAL OFFICER
44 S CLINTON AVE 7TH FLOOR
PO BOX 350
TRENTON NJ 08625

[Signature]



**New Jersey
Natural Gas**

RECEIVED
MAIL ROOM

Craig A. Lynch
VICE PRESIDENT
ENERGY DELIVERY

October 15, 2007 **07 OCT 18 AM 11:36**

BOARD OF PUBLIC UTILITIES
NEWARK, N.J.

VIA REGULAR MAIL AND FACSIMILE

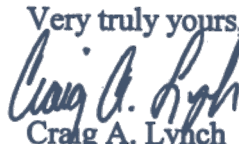
Mr. James Giuliano, Director
Division of Reliability and Security
New Jersey Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

RE: OC#19-07

Dear Mr. Giuliano:

In conjunction with the acceptance by New Jersey Natural Gas ("NJNG" or the "Company") of Offer of Settlement OC#19-07, NJNG is sending in the attached document listing the Company's response to the suggested remedial actions received from the New Jersey Board of Public Utilities ("BPU") staff. Additionally, NJNG maintains the previously stated commitment to continue working with the BPU staff, other utilities in New Jersey and interested stakeholders to enhance damage prevention activities in the state. The remedial actions discussed in the attached document will supplement the work already being done to supervise and monitor all markout work and the actions of NJNG's markout contractor. Those efforts have been highlighted in previous communications with your office.

Please feel free to contact me if you have any additional questions or if we can provide any assistance in this matter. We look forward to continuing to work with the BPU to improve damage prevention activities throughout the state in a coordinated and comprehensive manner.

Very truly yours,

Craig A. Lynch
Vice President, Energy Delivery

TT:dd

Attachment

c: Douglas Ziemba, BPU
Phillip Galka, BPU
Tracey Thayer, Esq.



NJNG comments on remedial actions proposed by the BPU Staff
October 12, 2007

1) We are interested in what corrective actions your company has taken on its own. Most of this was covered in your previous submission.

NJNG RESPONSE

As you know, over the past year New Jersey Natural Gas (NJNG) has implemented a markout quality assurance program. A major part of this program focuses on ensuring that the markout contractor is complying with its contractual obligation. As a result of this quality assurance program, NJNG was alerted about the issue of late tickets and the existence of a backlog of open markout tickets in April 2007. Since that time, NJNG has further enhanced this quality assurance program by seeking assistance from One-Call. In light of that, the Company is now receiving a "daily tickets log" from the One-Call system that provides us information on the number of markout requests that are received at the New Jersey One- Call system. At the end of each day, this report is compared to our markout contractor production log. This comparison provides us with a snapshot assessment of tickets completed versus tickets received by One-call.

2) In addition, the BPU wants to ensure that your company's markout process has sufficient backup capacity to handle unexpected volumes without the creation of daily markout backlogs. Please provide a detailed description of the backup process your company will initiate should the contract vendor resource fail. Include the number and location of company technicians who are trained to perform markouts and how they will be deployed.

NJNG RESPONSE

NJNG has a sufficient number of trained and experienced personnel available to be deployed to work on mark-outs that are delayed or overdue, based on information received from the mark-out contractor and/or conversations with the excavators. Once the Company is aware of a serious backlog situation, those employees will be reassigned to markout duties. The markout contractor is constantly reminded of the importance of completing the excavator markout requests on time and accurately. To meet this requirement, the markout contractor will notify NJNG by noon if they are unable to complete the markout request within three business days. This will provide NJNG with sufficient time to reassign personnel to markout duties.

3) We expect that the markout process is constantly monitored for quality and timeliness by your company. Please describe the monitoring process and include the name, phone number and location of the staff members who are doing the monitoring.

NJNG RESPONSE

The NJNG System Enhancement Department has assigned a Markout Coordinator to monitor the day-to-day activities of its markout contractor. The markout coordinator is responsible for auditing markout technician's field capabilities. Additionally, she ensures that the markout contractor is fulfilling its contractual obligation, by conducting joint field investigations of markouts that may be inaccurate. The overall responsibility for the markout program falls under Mobeen Khan, Manager, System Enhancement Department and he can be reached at (732) 919-8035.

4) At the end of a business day (5:00pm) if contracted resources are unable to complete the day's pending markouts then company resources will immediately be deployed. Please identify who will identify, assign and monitor the company resources to complete pending daily markouts.

NJNG RESPONSE

The Company monitors the status of markout requests on a daily basis to ensure that there are no undue delays. NJNG will monitor and receive notice from its markout contractor by noon of their inability to complete markouts within three business days. It is the Company's position that the noon deadline is more workable since it gives NJNG the time necessary to pull its work force in and reassign them to delayed markout work. Once it is determined that NJNG resources will be required to complete daily markout work, Mobeen Khan will notify Craig Lynch, Vice President, Energy Delivery and the appropriate distribution managers.

5) In order to help prevent underground damages the BPU will provide approximately 6 cases of 75 channel signs promoting underground damage prevention. Please provide a plan for the distribution and installation of these signs. The promotional items can be picked up at the BPU Newark offices.

NJNG RESPONSE

In the past, NJNG has actively participated in distributing the promotional items available from the BPU and has an ongoing program of installing channel signs along their transmission pipeline routes. NJNG will arrange to pick up the currently available materials as soon as possible and will ensure distribution to community groups, excavators, and municipalities. NJNG will also post or display the relevant information in all Company facilities.

New Jersey Natural Gas

GS07110861K

Service List

Craig Lynch
Vice President, Energy Delivery
New Jersey Natural Gas
1415 Wyckoff Road
P.O. Box 1464
Wall, New Jersey 07719

James Giuliano
Director, Division of Reliability and Security
NJ Board of Public Utilities
2 Gateway Center
Newark, New Jersey 07102

Geoffrey Gersten
Deputy Attorney General
State of New Jersey, Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101