



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu/](http://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. ES07110864K
BY JERSEY CENTRAL POWER AND LIGHT	)	OC # 22-07

(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.

Jersey Central Power and Light, 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:

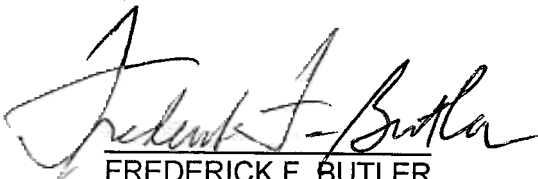
- A backup system that utilizes the Operator's company staff or additional resources to complete daily mark-outs should the primary resource fail. A description of the backup process including the deployment mechanism shall be submitted to Board staff.
2. An in-house, daily monitoring process that ensures 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 \$25,000.00. Such payment has been received by the Board in accordance with Exhibit A.

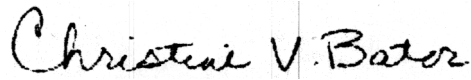
DATED: 12/21/07

BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

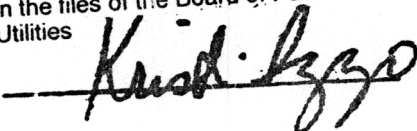
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
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





STATE OF NEW JERSEY  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Rec'd  
7/2/07  
ju

July 2, 2007

**CERTIFIED MAIL RRR**

Jersey Central Power & Light  
Attn: Michael Obremski  
PO Box 1911  
Morristown, NJ 07962-1911

**ALLEGED ONE-CALL VIOLATION**

**LOCATION:** Multiple

**DATE OF ALLEGED VIOLATION:** On or About April 14, 2007 thru May 21, 2007

**BRIEF DESCRIPTION OF PROBABLE VIOLATION:** Did Not Properly Mark Out/  
Failure to Mark Out Within Three Business Days

**STATUTE, REGULATION, OR ORDER VIOLATED:** N.J.S.A. 48:2-80

**RE:** OC#22-07

Dear Mr. Obremski:

The Board of Public Utilities (Board) has jurisdiction to oversee and enforce the provisions of the Underground Facility Protection Act (Act), N.J.S.A. 48:2-73 et. seq. The Act requires excavators to notify the New Jersey One-Call Center (formerly the Garden State Underground Plant Location Service) prior to excavating. Violators of the Act are subject to a civil penalty of not less than \$1,000 and not more than \$2,500 per violation per day. The civil penalty for a related series of violations may not exceed \$25,000. If the violation of the Act involves natural gas facilities, the maximum penalties are \$25,000 per penalty per day, with a total maximum of \$500,000 for a related series of violations.

In this instance, the Board's staff is willing to resolve this violation prior to the commencement of formal enforcement proceedings. In your case, Board's staff offers you a compromise and settlement in the amount of **\$25,000, plus, the submission of an approved remediation/prevention plan to Board Staff.** If you accept this compromise and settlement, Board's staff will recommend that this matter involving **only the specific violation listed above** be terminated by formal Board acceptance of this compromise and settlement at a regularly-scheduled public agenda meeting. You are advised that you have the right to a hearing in this matter and that, if you accept this settlement offer, you are waiving your right to such a hearing or to otherwise contest this matter through the administrative or judicial processes.

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 **\$25,000**, made payable to: TREASURER, STATE OF NEW JERSEY, to:

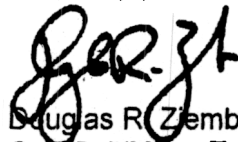
Joseph J. Potena  
Chief Fiscal Officer  
Board of Public Utilities  
44 South Clinton Avenue - 7<sup>th</sup> Fl.  
PO Box 350  
Trenton, NJ 08625

**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. Ziemba, 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: 8/6/07

DONALD A. BRENNAN KH  
Authorized representative of  
Jersey Central Power & Light Co.

OC#22-07

cc: Joseph J. Potena, CFO



FIRSTENERGY CORP.

VOID IF NOT CASHED WITHIN 90 DAYS

Jersey Central Power and Light

ES07110864K EXHIBIT A

0863431

50-937

213

Check No. 0863431

CHECK DATE

AMOUNT

PAY TO THE ORDER OF TREASURER STATE OF NEW JERSEY

NJ BOARD OF PU - OFFICE OF BUD &amp; FI EXACTLY \*\*\*\*\*25,000

PO BOX 350

TRENTON, NJ 08625

08 01 2007

\*\*\*\*\*25,000.00

DOLLARS 00 CENTS

Treasurer  
FirstEnergy Corp.

JPMorgan Chase Bank, Syracuse, NY 13206

⑈0863431⑈ ⑆021309379⑆ 601864788⑈

VENDOR NO. 0140040365 DOC NO. 2000238497

PO NO	INVOICE / RCPT #	DATE	DOCUMENT #	VENDOR INV AMT	DISCOUNT	NET AMOUNT
	OC #22-07	07/23/2007	1902139303	25,000.00	0.00	25,000.00

REVIEW INVOICE ACTIVITY AT [HTTPS://WWW.GPU.COM/APWEB](https://www.gpu.com/apweb). FOR ACCESS CALL 814-539-3200

**Draft Response to BPU Concerns Regarding**  
**UtiliQuest Performance**  
**Case OC#22-07**

Questions:

1. We are interested in what corrective actions your company has taken on its own. The response to this was covered in a letter from Mr. Donald Brennan to Mr. Douglas Ziemba dated July 26, 2007 letter.

*The letter stated: "The backlog of markout tickets that exceeded the required 72 hours to completion in April and May of 2007 were effectively completed and remediated on May 13, 2007. This was accomplished by the contractor temporarily adding trained resources to the Region and working overtime to complete the work. In parallel with this, new employees were brought on board and trained by the Contractor to match the future and existing anticipated work load. The Company has regularly reviewed the performance of the Contractor. JCP&L requires that our Contractor perform to meet the One-Call timelines for the markouts. The Contractor's Senior Management understands the failure to meet the JCP&L commitments for One-Call, will result in the termination of the contract with them."*

*Subsequent to this letter, there have been two separate meetings with UtiliQuest management to review their progress in making performance improvements to timeliness, accuracy, and quality of markouts for JCP&L. They have responded by replacing senior management; hiring additional personnel; working extended hours including weekends; bringing in personnel from out of state; purchasing new locating equipment; and realigning their field forces to cover the most active areas. The contractor reports their daily performance to the Company's One Call ticket screening center. Any tickets out of compliance are reviewed by the FE staff. Those out of compliance without reasonable explanation or justification such as locked or inaccessible location, incorrect address, weather delay etc, require the contractor to coordinate directly with the excavator and to certify daily that this has been accomplished to ensure no digging is done without a proper location provided.*

*JCP&L will continue to meet with UtiliQuest on a regular basis to review their performance and if necessary, discuss additional actions necessary to meet their contract obligations and the requirements of the One-Call Law and avoid the potential for non-compliance.*

2. In addition, the BPU wants to ensure that your company's markout process has sufficient backlog 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 contractor vendor resource fail.

Include the number and location of company technicians who are trained to perform markouts and how they will be deployed.

*It is the responsibility of the contractor to ensure they have sufficient resources working sufficient hours to accomplish all of the necessary markouts to avoid non-compliance with the required markout time limit. This requires the contractor to staff, train, and equip their personnel in a manner to handle the peak demand for markouts. Failure to comply would be non-conformance to their contract and subject them to loss of the contract.*

*In the event that JCP&L found it necessary to revoke this contract, the terms and conditions require a sixty day notice of cancellation. FirstEnergy has made mid-contract changes such as this before and we fully expect that JCP&L would have a replacement contractor in place prior to the expiration and the transition would be seamless.*

*However, in the unlikely event of some other event precluding the contractor's ability to perform in the interim, JCP&L, through the FirstEnergy system, has access to other similar contractors who could be deployed on a temporary basis while a permanent replacement for this contractor was implemented.*

*Additionally, JCP&L has personnel and equipment located throughout the service area capable of performing under ground markouts of company facilities in the interim until the new contractor was up and running.*

3. We expect 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.

*As mentioned in the response to No. 2 above, JCP&L requires a listing daily from UtiliQuest that provides JCP&L the number of tickets that are late, i.e., not marked within 72 hours and an explanation of the reason and the action planned or taken to remediate the condition. Along with the ticket number, they supply the municipality, a reason why the ticket is late and whether they have contacted the excavator and have an agreement with them. Mr. William O. Johnson of the FirstEnergy Ticket Screening Operations Center reviews the listing and takes the appropriate action with the contract locator on a daily basis. Today the backlog is very low and there is normally a valid reason why tickets are late, such as wrong address, confusing location on the ticket, no access, etc. If a late ticket were to appear on the listing without a justifiable or valid reason, the Company would contact the Contractor and require immediate deployment of the resources necessary to correct the deficiency to maintain compliance. If a pattern or trend were to develop, the Company would contact the Contractors' Senior Management to notify them of the situation and require immediate intervention to*



*rectify the problem. These issues are discussed at periodic meetings with the Contractor as referred in response to number 1 above, to avoid any repeat occurrences.*

4. At the end of the 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.

*UtiliQuest does not work normal business hours. They have a 24 hour, 7 day a week contact center. JCP&L fully expects them to complete all of their tickets in the prescribed time frame. William O. Johnson monitors UtiliQuest's performance and pending mark-outs on a daily basis as describe previously. If the Contractor is unable to complete a markout, the Company mandates that they contact the ticket initiator to discuss an immediate remedy for that ticket.*

*In the rare case where the Contractor cannot perform (due to emergency or unforeseen circumstance), the other FirstEnergy Operating Companies have contracts with other locating vendors that could be called upon for assistance. In addition, if this is still not sufficient, the Company has trained employees throughout both regions that can be temporarily shifted for emergency purposes only.*

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

*JCP&L has ordered some channel signs from the One-Call Program to determine how they may be used in the Company's Damage Prevention Program.*

6. Submit the above with your payment of the settlement offer to the New Jersey Board of Public Utilities.

*Payment has been previously submitted.*

Jersey Central Power and Light

ES07110864K

Service List

Mike Filippone  
Director, Rates and Regulatory Affairs  
Jersey Central Power and Light  
300 Madison Ave  
Morristown N.J. 07962

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