



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. ES07110865K
BY ATLANTIC CITY ELECTRIC)	OC # 23-07

(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.

Atlantic City Eléctric, 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.

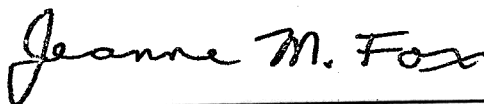
The Board has reviewed the remediation plan and HEREBY ORDERS that in addition to the procedures described in the attached remediation plan, within 30 days of this Order, the Operator shall implement a remediation plan that includes:

- 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.

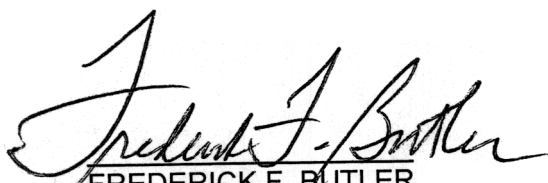
The Board HEREBY ORDERS the Operator to pay a penalty of \$25,000.00. Such payment has been received by the Board in accordance with Exhibit A.

DATED: 12/21/07

BOARD OF PUBLIC UTILITIES
BY:



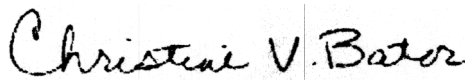
JEANNE M. FOX
PRESIDENT



FREDERICK F. BUTLER
COMMISSIONER

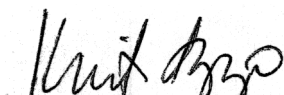


JOSEPH L. FIORDALISO
COMMISSIONER



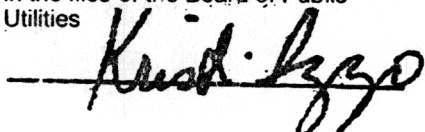
CHRISTINE V. BATOR
COMMISSIONER

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

July 2, 2007

CERTIFIED MAIL RRR
Atlantic City Electric Company
Kenneth J. Parker
5100 Harding Highway
Mays Landing, NJ 08330

ALLEGED ONE-CALL VIOLATION

LOCATION: Multiple locations

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#23-07

Dear Mr. Parker:

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.

Sent By: CONECTIV AR SUPPORT;

6096255274;

Jul-11-07 3:44PM;

Page 3/3

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:

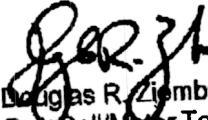
Joseph J. Potena
Chief Fiscal Officer
Board of Public Utilities
44 South Clinton Avenue - 7th Fl.
PO Box 360
Trenton, NJ 08628

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: August 6, 2007


Authorized representative of
Atlantic City Electric Company

OC#23-07

cc: Joseph J. Potena, CFO

VERIFY THE AUTHENTICITY OF THIS MULTI-TONE SECURITY DOCUMENT • CHECK BACKGROUND AREA CHANGES COLOR GRADUALLY FROM LEFT TO RIGHT

atlantic city electric
AEE Company

Settlement - DC No. 23-07
NO. A00018325

The Bank of New York
Delaware

62-35
311

PAY TO THE ORDER OF **ONLY \$25,000.00**
CENTS

DATE 08/08/2007 AMOUNT ****\$25,000.00

TREASURER STATE OF NEW JERSEY
JOE POTENA NEW JERSEY BOARD OF
PUBLIC UTILITIES
PO Box 350
TRENTON NJ 08625-0350

Atlantic City Electric Company
Wilmington, Delaware

[Signature]
AUTHORIZED SIGNATURE

TWENTY-FIVE THOUSAND DOLLARS AND ZERO CENTS *****

⑈00018325⑈ ⑆031100351⑆ ⑈0300916681⑈

In re Alleged One-Call Violation OC No. 23-07**Remediation Plan**

WHEREAS, on or about July 2, 2007, the New Jersey Board of Public Utilities (the "Board") notified Atlantic City Electric Company ("ACE" or the "Company") of alleged violations (the "Violation") of the New Jersey Underground Facility Protection Act (the "Act"), N.J.S.A. 48:2-80 *et seq.* which Board Staff asserted occurred at "multiple locations" on or about and from April 14, 2007 through May 21, 2007; and

WHEREAS, the Board has jurisdiction to oversee and enforce the provisions of the Act; and

WHEREAS, ACE and the Board are desirous of resolving the alleged Violation prior to the commencement of formal enforcement proceedings; and

WHEREAS, the Board offered to compromise and settle the Violation for \$25,000.00 and the submission of an approved remediation/prevention plan to Board Staff (the "Settlement"); and

WHEREAS, ACE agreed to the Settlement by letter dated August 9, 2007, and remitted a check in the amount of \$25,000.00, the receipt and sufficiency of which has been acknowledged.

NOW, THEREFORE, ACE, in furtherance of the Settlement, states as follows:

1 Corrective Actions

Prior to implementation and payment of the Settlement, the Company significantly increased its monitoring of, and enforcement authority over, its contracted service provider. ACE receives enhanced daily and weekly reporting from the vendor detailing the status of all mark-out requests received and processed on the Company's behalf. (Notwithstanding increased supervision of the provider, ACE respectfully notes that the mark-out process contains an inherent flaw in that ACE has no direct means by which it can determine whether a mark-out request has been closed in the One-Call system.)

2. Backup Capacity and Process

ACE has identified six (6) individuals who have the requisite training and equipment to complete mark-out requests on an emergency basis. These individuals are employees of the Company and are currently assigned to ACE regional offices. Further, in the event that ACE's contract vendor fails entirely to fulfill its obligations, ACE will dispatch necessary internal resources (as stated above) and may also enter into interim agreements with other qualified service providers on an emergent basis, as required, to process any backlog of mark-out requests.

3. Monitoring Process

As the Board is aware, the Company is currently under contract with a third-party service provider, UtiliQuest, LLC, to perform all mark-out services contemplated under and required by the Act. ACE holds its service provider responsible for full and timely adherence to the terms and conditions embodied in that agreement and the requirements of the Act. In the event the service provider is unable or unwilling to fulfill its duties under the contract, ACE will:

- (1) identify and follow up on the status of any incomplete mark-outs;
- (2) obtain assurances that trenching/excavation work at the locations identified under (1) is scheduled to begin; and
- (3) make available, on an emergency basis, up to six (6) ACE employees who will complete backlogged emergency mark-outs as stated in Paragraph 2 above.

4. Monitoring Process Manager

The ACE individual who will identify, assign and monitor the resources detailed in Paragraph 3 above and the quality and timeliness of the work performed is:

Paula M. James
Contract Administrator
Atlantic City Electric Company
Mays Landing Regional Office

Direct Dial: 609.625.5765

Facsimile: 609.625.6944

E-Mail: paula.james@atlanticcityelectric.com

5. Damage Prevention Signs

The Company agrees with Board Staff that underground damage prevention is of paramount concern. ACE representatives hereby commit to retrieve the "channel signs" offered by the Board, and will contact Board Staff to discuss an acceptable plan of distribution.

6. Full Settlement of Violation

By executing this Settlement and Remediation Plan, it is ACE's express understanding that the Board has agreed to release ACE from any further liability in connection with this specific Violation. Moreover, the Settlement and this Plan of Remediation constitute an accord and satisfaction and are not to be construed as an admission of liability of any matter of fact or law. ACE understands that the Settlement is without prejudice as to the position of the State of New Jersey or any agency or subdivision thereof in connection with other incidents not related to the alleged Violation.

7. General Provisions

ACE acknowledges: (a) that the individual executing this Plan of Remediation on ACE's behalf has the authority to execute this document; (b) that the terms of this Plan of Remediation have been fully explained to that representative by its counsel; and (c) that the representative fully understands each term of this Plan of Remediation.

DATED as of this day of October, 2007.

ATLANTIC CITY ELECTRIC COMPANY

BY: _____

Name:

Title:

Distribution: Douglas R. Ziemba, Senior Chief Engineer
Phillip J. Galka
Philip Affinito

Atlantic City Electric

ES07110865K

Service List

Philip Passanante
Assistant General Counsel
Atlantic City Electric
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Wilmington Delaware 19899-0231

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Director, Division of Reliability and Security
NJ Board of Public Utilities
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Newark, New Jersey 07102

Geoffrey Gersten
Deputy Attorney General
State of New Jersey, Division of Law
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Newark, New Jersey 07101