



Agenda Date: 4/27/11  
Agenda Item: 1B

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
Two Gateway Center, Suite 801  
Newark, NJ 07102  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

AUDITS

IN THE MATTER OF THE FINAL TRUE-UP )  
BY ONE CALL SYSTEMS, INC. FOR OPERATION OF )  
THE NEW JERSEY ONE-CALL DAMAGE )  
PREVENTION SYSTEM )

ORDER  
DOCKET NOs. AX99050341 &  
AX04030176

Mark R. Sullivan, Esq., 407 Forest Trails Drive, Wexford, PA 15090-9567

Karla McNamara, Chairwoman, One Call Systems, Inc., 115 Evergreen Heights Drive,  
Pittsburgh, PA 15229-1346

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 ("the 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.

Effective November 17, 1999, the Board entered into a five (5) year agreement with One Call Systems, Inc. (OCS) to be the System Operator of the System. This agreement expired on November 16, 2004. A subsequent five (5) year agreement was entered between the Board and OCS effective November 17, 2004 which, after a three (3) month extension, expired on February 16, 2010, (collectively the "Agreements"). As System Operator, OCS's primary responsibility was to process incoming messages from excavators of planned excavation or demolition activity and send notifications ("Tickets") to underground facility operators with facilities in the area of the proposed activity. Additionally, OCS was required to spend an annual advertising budget promoting the System and excavator's obligations under the Act. The Agreements provide that OCS will be compensated for each request for mark-out ("Message") that it receives and that it will collect this compensation through a per-Ticket charge to underground facility operators. The exact amount of this charge is calculated based upon an estimate, made at the beginning of each contract year, of the average number of Tickets that will be sent for each Message received ("the Ratio"). The Ratio is established to ensure that the charges for Tickets will provide sufficient revenue to pay OCS at the contract rate per Message.

Pursuant to the Agreements, OCS is required to file an Annual True-Up with the Board due on October 15 each year of the contract, with a final True-Up due at the end of the contract. The True-Up calculation is used to determine if there is an over recovery (monies due from OCS) or under recovery (monies due to OCS) for the True-Up period. On April 12, 2010, staff received OCS's Final True-Up statement for the period ending on February 16, 2010, the termination date of the contract with OCS. This final True-Up included data covering the two contract terms and represented a collective conclusion of the OCS True-Up process.

Staff of the Board's Division of Audits reviewed the information submitted by OCS. Subsequently, by letter dated June 4, 2010, Staff advised OCS that it had preliminarily determined that OCS over-collected \$405,886.49, which included \$186,985.62 in unspent advertising funds over the course of the Agreements. Staff further advised OCS that certain additional documentation/explanation would need to be submitted to Staff in order to review OCS's claim that certain deductions should be made to account for uncollectible amounts. By letters dated June 15, 2010 and June 22, 2010, OCS submitted additional information for Board Staff review.

On August 24, 2010, One Call Concepts (the One Call System Operator effective February 16, 2010), on behalf of the Board, obtained historical data records held by OCS pursuant to the Agreements, relating to its operations of the One Call System, including One Call ticket logs, audio records and equipment relating thereto from OCS.

After review and discussion of the final True-Up and additional information submitted by OCS in June 2010, Board Staff advised OCS, through its attorney, by letter dated February 15, 2011<sup>1</sup> that Staff had determined a revised over-collection due to the Board from OCS in the amount of \$302,751.28 as reflected on the schedule attached thereto. This over-collection includes \$186,985.62 in unspent advertising funds, credit adjustments of \$12,448.40 for accounts deemed uncollectible and \$90,686.81 for amounts written-off after settlement during the period. No adjustments for legal fees related to OCS's collection process were included consistent with the Board's contract with OCS. The February 15, 2011 letter also advised OCS that these monies due, plus any appropriate interest must be turned over to the Board or its designee, as directed by the Board. OCS was further advised that Board Staff was prepared to bring this matter to the Board at its March 30, 2011 Board meeting for a Board Order regarding OCS's final True-Up. Finally, the February 15, 2011 letter indicated that if OCS wished to discuss the matter further with Board Staff prior to its presentation to the Board, OCS should contact Board Staff no later than March 15, 2011.

OCS has not filed a response to the February 15, 2011 letter or otherwise contacted Board Staff regarding this matter.

## **DISCUSSION AND FINDINGS**

The Board has reviewed the final true-up submitted by OCS, including the supplemental submissions made on June 15 and June 22, 2010. The Board has also reviewed the two

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<sup>1</sup>In the intervening period, OCS filed for bankruptcy protection in the Western District of Pennsylvania, on August 11, 2010, Docket No. 10-25756-JKF, and subsequently ceased operations. This Bankruptcy case was dismissed and the case was closed on September 29, 2010 without a discharge.

Agreements with OCS and Board Staff's analysis of the final true-up. The Board is aware that OCS has been given an opportunity to present any additional information and has not done so.

In light of this information and OCS's failure to respond to or oppose the final calculations made by Board Staff, the Board HEREBY FINDS the Staff's final True-Up calculation amounting to an over collection in the amount of \$302,751.28 to be appropriate in this matter. The Board HEREBY ORDERS that all monies due in the amount of \$302,751.28 must be remitted by OCS to the Board or its designee, within fifteen (15) days of the date of this Order.

DATED: 4/29/11

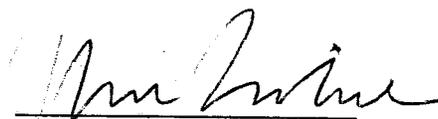
BOARD OF PUBLIC UTILITIES  
BY:



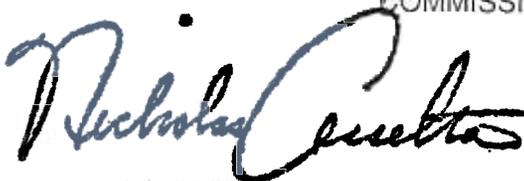
LEE A. SOLOMON  
PRESIDENT



JEANNE M. FOX  
COMMISSIONER



JOSEPH L. FIORDALISO  
COMMISSIONER



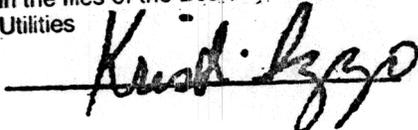
NICHOLAS ASSELTA  
COMMISSIONER

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



IN THE MATTER OF THE FINAL TRUE-UP BY ONE CALL SYSTEMS, INC. FOR  
OPERATION OF THE NEW JERSEY ONE-CALL DAMAGE PREVENTION SYSTEM  
DOCKET NOS. AX99050341 & AX04030176

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