



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

RELIABILITY & 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 NO. GS14020128K
) et. al. (see attached appendix)

Parties of Record:

- Phil Salvatore, Compliance Engineer, Elizabethtown Gas Company.**
- Craig Lynch, Vice President, New Jersey Natural Gas Company**
- John Stanzola, Director, South Jersey Gas Company**
- Craig Hotchkiss, Director, Operations Services, Jersey Central Power and Light**
- Bernard Rutowski, Regulatory Compliance/Safety Officer, Toms River MUA**
- Stan Sperlak, Owner, Cape Shore Gardens**
- Philip Hayes, Owner, Evergreen Lawn Sprinklers**
- Michael Newman, President, Offshore Pools**
- Louis Damelio, Treasurer, Con-Electric**
- Robert Cherry, General Manager, Quality First Contracting**
- Carla Hjelm, Senior Corporate Attorney, United Water**
- John Wegele, Operations Manager, Pompton Lakes Water Dept**
- Arif Malick, Principal, Malick & Scherer P.C.**
- Anna Cifelli, Cifelli & Son Gen Cont**
- Earle Collins, President, Dennisville Fence Co.**
- Robert Finnigan, Perna Finnigan Inc.**

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," and "operator" as "a person owning or operating, or controlling the operation of, an underground facility..." N.J.S.A. 48:2-75.

The Act subjects violators of its provisions to civil penalties of not less than \$1,000.00 and not more than \$2,500.00 per violation per day, not to exceed \$25,000 for any related series of violations. N.J.S.A. 48:2-88(a). Violations relating to natural gas or hazardous liquid underground pipelines or distribution facilities shall subject the violator to civil penalties not to exceed \$100,000.00 per violation per day and not to exceed \$1,000,000.00 for any related series of violations. In addition, a 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 attached 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 for its review. After consideration of the 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 described 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.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

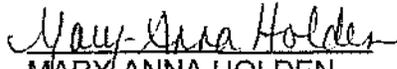
DATED: 5/21/14

BOARD OF PUBLIC UTILITIES
BY:

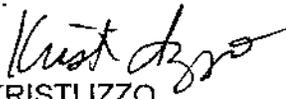

DIANNE SOLOMON
PRESIDENT

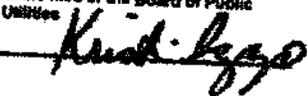

JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
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 ALLEGED VIOLATIONS OF THE UNDERGROUND FACILITY
PROTECTION ACT, N.J.S.A. 48:2-73 ET SEQ. ORDER ACCEPTING SETTLEMENTS
DOCKET NO. GS14020128K et. al. (see attached appendix)**

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JCP&L, GPU Energy
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Craig Lynch
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John Stanziola
South Jersey Gas
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Folsom NJ 08037

Bernard Rutkowski
Toms River MUA
340 West Water Street
Toms River, NJ, 08753

Stan Sperlak
Cape Shore Gardens
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John Wegele
Pompton Lakes Water Dept
2000 Lincoln Ave
Pompton Lakes NJ 07442

Arif Malick
Malick & Scherer P.C.
53 Frontage Rd
Suite 260
Hampton NJ 08827

IN THE MATTER OF:
ALLEGED VIOLATIONS OF THE UNDERGROUND FACILITY PROTECTION ACT,
N.J.S.A. 48:2-73 ET.SEQ. ORDER ACCEPTING SETTLEMENTS

Bureau of One Call - Settlements -APPENDIX-May 2014

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS14020128K	GOC2009-0027	Did not properly mark out	\$3,000	Elizabethtown Gas Co		07/15/09	Bertram Terr, Union	12/12/13
Non Damage	AS14040308K	OC28-13	Did not have valid markout	\$1,000		Quality 1st Contracting Inc	06/21/13	Normandy Ct, Flemmington	03/14/14
Damage, Gas	GS14040307K	GOC2013-0004	Failure to hand dig, Disruption of major Traffic Hub	\$6,000		Con-Electric	07/30/13	Newark Airport, Brewster Rd, Newark	02/20/14
Non Damage	AS14040310K	OC25-13	Careless violation 48:2-82 b.(4)	\$3,000		Malick & Scherer P.C.	02/20/13	Rt 22. Bridgewater, Readington, Branchburg	03/14/14
Non Damage	WS14040305K	OC31-13	Did not obtain a proper markout	\$1,000		Offshore Pools	11/06/13	Rambling Brook dr. Holmdel	03/20/14
Damage, Gas	GS14040312K	GOC2011-0048	Did not obtain a proper markout	\$3,000		Pompton Lakes Water Dept	10/05/11	Walnut Ave, Passaic	02/24/14
Damage, Gas	GS14040304K	GOC2013-0006	Did not properly mark out	\$3,000	Elizabethtown Gas Co		09/10/13	Frontage Rd, Hampton	03/25/14
Damage, Gas	GS14040303K	GOC2011-0086	Did not properly mark out	\$3,000	South Jersey Gas Co		09/28/11	County House Rd, Gloucester	03/25/14
Damage, Water	WS14040311K	WOC2013-0001	Did not properly mark out	\$3,000	United Water		03/28/13	14th & Grand St. Hoboken	02/18/14
Damage, Gas	GS14040306K	GOC2012-0025	Did not have valid markout	\$3,000		Evergreen Lawn Sprinklers	07/05/12	Ocean Ave, Elberon	03/19/14
Damage, Gas	GS14020129K	GOC2010-0012	Did not have a proper mark out	\$3,000		JCP&L	01/03/10	Middletown Lincroft rd, Middletown	12/10/13
Damage, Gas	GS14020132K	GOC2010-0100	Did not properly mark out	\$3,000	NJ Natural Gas		08/11/10	N Sussex St, Dover	12/11/13
Damage, Gas	GS14020133K	GOC2010-0054	Did not properly mark out	\$3,000	NJ Natural Gas		05/12/10	Bechstein Dr, Aberdeen	12/11/13
Damage, Gas	GS14010077K	GOC2010-0102	Did not properly mark out	\$3,000	NJ Natural Gas		08/13/10	7th St, West Keansburg	12/11/13
Damage, Gas	GS14020127K	GOC2008-0100	Did not properly mark out	\$3,000	NJ Natural Gas		09/30/08	16th & Maplewood, Belmar	12/11/13
Damage, Gas	GS14010074K	GOC2010-0010	Did not obtain a proper markout	\$3,000		Toms River MUA	12/29/09	Morning Glory Dr, Toms River	12/17/13
Damage, Gas	GS14010073K	GOC2010-0004	Did not properly mark out	\$3,000	Elizabethtown Gas Co		02/18/10	Palisade Rd, Elizabeth	12/12/13
Damage, Electric	ES14010072K	EOC2008-0005	Did not properly mark out	\$3,000	JCP&L		09/15/08	International Dr, Mount Olive	12/10/13
Damage, Gas	GS14010071K	GOC2011-0082	Did not obtain a proper markout	\$3,000		Cape Shore Gardens	10/25/11	New England Rd, Cape May	12/12/13
Non Damage	ES14040349K	OC12-10	Did not properly mark out	\$3,000	JCP&L		08/18/10	Malibu Ct. Old Bridge	03/27/14
Damage, Gas	GS14040301K	GOC2012-0005	Failure to maintain markout	\$3,000		Cifelli & Son Gen Con	03/14/12	Cedar Ave, Madison	03/27/14
Damage, Gas	GS14040355K	GOC2011-0002	Did not properly mark out	\$3,000	NJ Natural Gas		01/10/11	Joda Rd. W. Allenhurst	04/01/14
Damage, Gas	GS14040354K	GOC2011-0005	Did not properly mark out	\$3,000	NJ Natural Gas		01/04/11	Renfrew, Middletown	04/01/14
Non Damage	GS14040353K	OC14-08	Did not properly mark out	\$3,000	NJ Natural Gas		06/07/08	River Rd & Lake Ave, Redbank	04/01/14
Non Damage	GS14040351K	OC15-08	Did not properly mark out	\$3,000	NJ Natural Gas		06/07/08	River Rd, Redbank	04/01/14
Non Damage	GS14040350K	OC16-08	Did not properly mark out	\$3,000	NJ Natural Gas		06/07/08	Beekman Place, Redbank	04/01/14
Damage, Gas	GS14040356K	GOC2012-0016	Did not obtain a proper markout	\$3,000		Dennisville Fence Co	07/10/12	68th st. Cape May	04/01/14
Damage, Gas	GS14040357K	GOC2012-0012	Did not obtain a proper markout	\$3,000		Perna Finnigan Inc.	07/02/12	W. 16th & Maryland Ave. Wildwood	04/01/14
Total	28			\$83,000					