



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://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. WS14050432K  
) et al. (see attached appendix)

**Parties of Record:**

- Craig Lynch, Vice President, New Jersey Natural Gas Company**
- Steve Sharp, Owner, SDC Cable Services**
- Phil Salvatore, Compliance Engineer, Elizabethtown Gas Company**
- Chris Dunnder, Owner, Dunnder Builders**
- John Stanziola, Director, South Jersey Gas Company**
- Michael Powers, Sr., Real Estate Representative, Atlantic City Electric**
- Ralph Hillmer, Director Operations Services, Jersey Central Power & Light**
- Eric Krise, Owner, Krise Electric**
- Humberto Graced, Owner, Star Installations**
- Jeffrey Cruz, EE Cruz**
- Charlie Ciro Barcia, Owner, Barcia Bros. Fence Inc.**
- Frank Coriano, Manager, Public Service Electric and Gas Company**
- Jacek Marchwinski, Owner, Polonia Construction Co.**
- Mary McBride, Owner, Urban Farms Landscape & Design**
- Kevin Keane, Manager-Field Operation, New Jersey American Water**

**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 ("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..."

The Act subjects violators of its provisions to civil penalties of not less than \$1,000 and not more than \$2,500 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 per violation per day and not to exceed \$1,000,000 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.

This Order shall be effective on August 1, 2014.

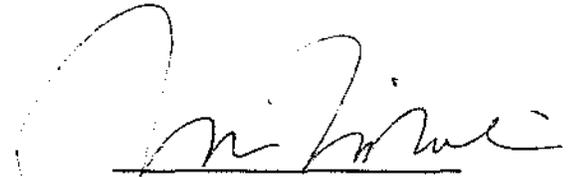
**NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED**

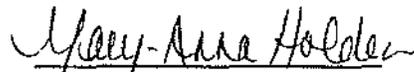
DATED: 7/23/14

BOARD OF PUBLIC UTILITIES  
BY:

  
DIANNE SOLOMON  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

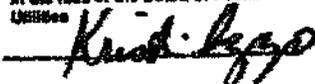
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
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.  
DOCKET NO. WS14050432K et al. (see attached appendix)**

SERVICE LIST

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New Jersey American Water  
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Franklin Lakes NJ 07417

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Post Office Box 45029  
Newark NJ 0710-45029

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-July 2014

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Non Damage	WS14050432K	OC9-10	Did not properly mark out	\$1,000	New Jersey American Water		06/29/10	Hillyer Cir, Middletown	04/08/14
Damage, Gas	GS14050435K	GOC2012-0024	Did not properly mark out	\$3,000	NJ Natural Gas		07/02/12	Cedar Ave, West End	04/10/14
Damage, Gas	GS14050430K	GOC2013-0019	Did not obtain a proper markout	\$3,000		Urban Farms Landscape & Design	09/27/13	Franklin Lake Rd, Franklin Lakes	04/10/14
Damage, Gas	GS14050431K	GOC2012-0020	Did not properly mark out	\$3,000	South Jersey Gas		07/14/12	Pennsgrove & Pedrickstown Rd, Salem	04/15/14
Damage, Gas	GS14020134K	GOC2011-0053	Did not properly mark out	\$3,000	PSE&G		09/21/11	Winthrop Rd, Teaneck	
Damage, Gas	GS14010076K	GOC2011-0046	Did not properly mark out	\$3,000	PSE&G		10/05/11	Tolowa Rd, Wayne	12/16/13
Damage, Gas	GS14010070K	GOC2010-0115	Did not properly mark out	\$3,000	PSE&G		10/07/10	Olden Ave, Trenton	12/23/13
Non Damage	GS14050434K	OC8-10	Did not properly mark out	\$3,000	PSE&G		06/07/10	Maplewood Ave, Cranbury	04/10/14
Non Damage	GS14040302K	OC11-10	Did not properly mark out	\$3,000	PSE&G		07/20/10	Orchard Rd, Montgomery	03/25/14
Non Damage	GS14040309K	OC22-12	Did not properly mark out	\$1,000	PSE&G		12/12/12	US Highway 206, Hillsborough	02/26/14
Damage, Gas	GS14020153K	GOC2012-0032	Did not properly mark out- Major disruption of traffic	\$6,000	PSE&G		09/17/12	Edinburg Rd, Hamilton	01/15/12
Damage, Gas	GS14020149K	GOC2011-0052	Did not properly mark out	\$3,000	PSE&G		09/16/11	Larsen Rd, West Milford	01/15/14
Damage, Gas	GS14020152K	GOC2010-0113	Did not properly mark out- 50 people evacuated	\$6,000	PSE&G		09/16/10	Oak St, Ridgewood	01/15/14
Damage, Gas	GS14020150K	GOC2011-0044	Did not properly mark out	\$3,000	PSE&G		10/04/11	Augusta St, South Amboy	01/15/14
Damage, Gas	GS14020151K	GOC2011-0050	Did not properly mark out	\$3,000	PSE&G		10/07/11	Highpoint Ave, Weehawken	01/13/14
Damage, Gas	GS14040348K	GOC2013-0005	Did not properly mark out	\$3,000	PSE&G		07/13/13	Rt 130, Cinnaminson	03/24/14
Damage, Gas	GS14020130K	GOC2010-0007	Did not properly mark out	\$3,000	PSE&G		01/22/10	Columbus Ave, Irvington	01/06/14
Damage, Gas	GS14020131K	GOC2010-0117	Did not properly mark out	\$3,000	PSE&G		10/27/10	Wyckoff Ave, Newark	01/06/14
Damage, Gas	GS14010075K	GOC2010-0023	Did not obtain a proper markout	\$3,000		PSE&G	03/19/10	Coolidge Ave, Fort Lee	03/06/14

Damage, Gas	GS14050433K	GOC2013-0073	Did not obtain a proper markout, Disruption of NJ Transit. Apprx 30 persons evacuated	\$6,000		Barcia Bros Fence Inc.	12/06/13	Fairleigh Dickinson University, Madison Ave	04/29/14
Damage, Gas	GS14050438K	GOC2014-0023	Did not properly mark out	\$3,000	Elizabethtown Gas		01/15/14	Deerfield Cr. Hackettstown	04/17/14
Damage, Gas	GS14050436K	GOC2014-0026	out. Evacuation of local homes	\$6,000	Elizabethtown Gas		01/20/14	Brandon Rd, Lawrenceville	04/17/14
Damage, Gas	GS14050428K	GOC2013-0018	Did not obtain a proper markout	\$3,000		Polonia Construction Co	09/26/13	Hamilton Ct, Old Bridge	04/29/14
Damage, Gas	GS14050427K	GOC2013-0014	Did not properly mark out	\$3,000	PSE&G		09/23/13	Vandeventner Ave, Princeton	04/29/14
Damage, Gas	GS14050426K	GOC2013-0010	Did not properly mark out	\$3,000	PSE&G		09/20/13	Fox Chase Rd.	04/29/14
Damage, Gas	GS14050414K	GOC2010-0080	Failure to use reasonable care	\$1,000		SDC Cable Services	7/16/2010	Killdeer Dr, Allamuchy	5/2/2014
Damage, Gas	GS14050417K	GOC2013-0054	Did not properly mark out	\$3,000	NJ Natural Gas		10/3/2013	Lippincott Rd, Little Silver	5/2/2014
Damage, Gas	GS14050416K	GOC2013-0069	Did not properly mark out	\$3,000	NJ Natural Gas		10/14/2013	Hugo Rd, Toms River	5/2/2014
Damage, Gas	GS14050415K	GOC2013-0064	Did not properly mark out	\$3,000	NJ Natural Gas		10/9/2013	Wildwood Rd, Ocean Gate	5/2/2014
Damage, Gas	GS14050418K	GOC2011-0073	Did not properly mark out	\$3,000	Elizabethtown Gas		8/31/2011	St. George Ave, Rahway	5/7/2014
Damage, Gas	GS14050419K	GOC2013-0017	Did not obtain a proper mark out	\$3,000		Dunnder Builders	9/26/2013	Chestnut St, Long Hill	5/7/2014
Damage, Gas	GS14050420K	GOC2013-0039	Did not properly mark out	\$3,000	South Jersey Gas		10/2/2013	6th Street, Waterford Twp	5/7/2014
Damage, Gas	GS14050421K	GOC2013-0028	Did not properly mark out	\$3,000	South Jersey Gas		10/4/2013	Central Ave, North Wildwood	5/7/2014
Damage, Gas	GS14050422K	GOC2013-0040	Did not properly mark out	\$3,000	South Jersey Gas		10/2/2013	26th Ave & Surf Ave, North Wildwood	5/7/2014
Non-Damage	ES14050412K	OC30-13	Did not obtain a proper mark out	\$2,000		Jersey Central Power & Light	8/14/2013	Rambling Brook, Holmdel	5/12/2014
Damage, Gas	GS14050413K	GOC2013-0041	Did not obtain a proper mark out	\$3,000		Atlantic City Electric	10/2/2013	Oak Ave, Egg Harbor	5/12/2014
Non-Damage	AS14050423K	OC13-12	Did not obtain a proper mark out	\$1,000		Star Installations	8/16/2012	Old Farm Rd, Holmdel	5/12/2014
Damage, Gas	GS14050424K	GOC2014-0004	Did not obtain a proper mark out	\$3,000		Krise Electric	1/17/2014	Polk Ln, Bridgeton	5/12/2014
Damage, Gas	GS14050425K	GOC2012-0008	mark out, Evacuation of approx. 30 people	\$6,000		EE Cruz	6/15/2012	Ryan St, Plainfield	5/13/2014
Damage, Gas	GS14050429K	GOC2013-0012	Did not properly mark out	\$3,000	PSE&G		09/20/13	Vanwinkle Ave, Jersey City	04/09/14
Damage, Gas	GS14050437K	GOC2013-0027	Did not properly mark out	\$3,000	Elizabethtown Gas		10/14/13	Bluffs Ct, Sussex	04/29/14
Total	41			\$129,000					