



Agenda Date: 10/22/14
Agenda Item: VIA-1

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
PURSUANT TO N.J.S.A. 48:2-73 ET SEQ.

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ORDER ACCEPTING
SETTLEMENTS

DOCKET NOs. AS14090978K
et al. (see attached appendix)

Parties of Record:

John Stanzola, Director, South Jersey Gas Company
Craig Lynch, Vice President, New Jersey Natural Gas Company
Frank Coriano, Manager, Public Service Electric & Gas Company
Phil Salvatore, Compliance Engineer, Elizabethtown Gas Company
David Boone, Manager, Buckeye Partners LP
Milton Nicholas, Kline Construction
Donald Bouch, President, Bouch Excavating
Robert Amon, Amon Construction
Joe Santos, Owner, Josantos Construction
Anthony Punko, Allstate Power Vac
Howard Payne, Owner, Howard Payne Landscaping
Thomas Kurz, Kurz Concrete Construction
Charles Hall, Mase Enterprises
Paulo Matos, PM Construction
Rich Russo, The Sprinkler Guy
Joe Giannetti, Yannuzzi Group
Thomas Tirrell, Tirrell Landscaping
Paul Platt, Solar City
Michael Sancilardi, Big Top Contractors
Frank Marucci Jr., Marbro Inc.
Stephen Patrick, Steve Patrick Plumbing
Jose Goncalves, JMG Concrete

BY THE BOARD¹:

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..."

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

¹ Commissioner Upendra J. Chivukula recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

Offers of Settlement in full satisfaction of the above referenced alleged violations of the Act.

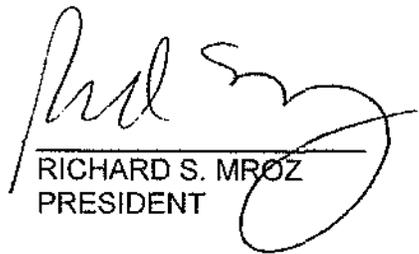
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Underground Facility Protection Act in connection with the above-referenced 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 October 31, 2014.

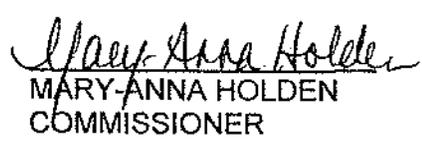
NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED

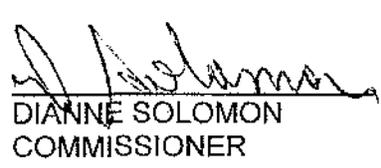
DATED: 10/22/14

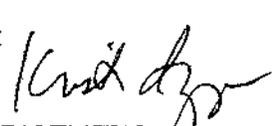
BOARD OF PUBLIC UTILITIES
BY:

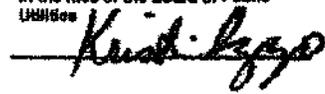

RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
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 PURSUANT TO N.J.S.A. 48:2-73 ET, SEQ. ORDER ACCEPTING
SETTLEMENTS DOCKET NO. AS14090978K et. al. (see attached appendix)**

SERVICE LIST

Craig Lynch
New Jersey Natural Gas Company
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Wall, NJ, 07719

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Bayville NJ 08721

Phil Salvatore,
Elizabethtown Gas Company
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Berkeley Heights, NJ 07922

Robert Amon
Amon Construction
13 Ever Ready Rd
Tuckerton NJ 08087

John Stanziola
South Jersey Gas
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Folsom NJ 08037

Joe Santos
Josantos Construction
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Newark NJ 07105

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Rahway NJ 07065

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Kline Construction
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Lakewood NJ 08701

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Hammonton NJ 08037

Rich Russo
The Sprinkler Guy
26 Laurel Ave
Jackson NJ 08527

Joe Giannetti
Yannuzzi Demolition
152 Us Hwy 206
Hillsborough NJ 08844

Michael Sancilardi
Big Top Contractors
31 Elliot St
Avenel NJ 07001

Frank Marucci Jr
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PO Box 134
Montclair NJ 07042

Jose Goncalves
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Monroe NJ 08831

Charles Hall
Mase Enterprises
552 West Leeds Ave
Absecon NJ 07067

Paulo Matos
PM Construction Group
1310 Central Ave
Hillside NJ 07205

Thomas Tirrell
Tirrell Landscaping
1143 Duff Pl
Point Pleasant NJ 08742

Paul Platt
Solar City
9 Corporate Dr
Cranbury NJ 08512

Stephen Patrick
Steve Patrick Plumbing
703 Seashore Rd
Erma NJ 08204

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-October VIA-1 2014

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Non Damage	AS14090978K	OC24-12	Did not properly mark out	\$3,000	Buckeye Partners LP		12/12/2012	Us Hwy 206, Hillsborough NJ	8/18/2014
Non Damage	AS14090979K	OC4-12	Did not properly mark out	\$3,000	Buckeye Partners LP		3/19/2012	Locktown School Rd, Delaware TWP	8/18/2014
Damage, Gas	GS14090981K	GOC2012-0013	Failure to hand dig	\$3,000		Kline Construction	7/2/2012	Whitman Dr, Sewell	8/22/2014
Damage, Gas	GS14090982K	GOC2014-0148	Did not have a valid markout	\$3,000		Bouch Excavating	5/5/2014	Roberts Rd, Toms River	8/15/2014
Non Damage	AS14090983K	NOC2014-0016	Did not have a valid markout	\$3,000		Amon Construction	6/9/2014	Mowhawk Dr, Little Egg Harbor	8/13/2014
Damage, Gas	GS14090984L	GOC2014-0163	Did not have a valid markout	\$3,000		Josantos Construction	5/16/2014	Dune Dr, Berkeley	8/15/2014
Damage, Gas	GS14090985K	GOC2014-0072	Did not properly mark out	\$3,000	Elizabethtown Gas		2/4/2014	Bergen Ave, Linden	7/29/2014
Non Damage	AS14090986K	NOC2014-0013	Did not have a valid markout	\$1,000		Allstate Power Vac	5/27/2014	Carter Dr, Edison	7/18/2014
Non Damage	AS14090987K	NOC2014-0014	Did not have a valid markout	\$1,000		Allstate Power Vac	5/28/2014	Daisy PL, Middlesex	7/11/2014
Non Damage	AS14090988K	NOC2014-0015	Did not have a valid markout	\$1,000		Allstate Power Vac	5/9/2014	Chanticeer Dr, Cherry Hill	7/18/2014
Damage, Gas	GS14090989K	GOC2014-0092	Did not properly mark out	\$3,000	South Jersey Gas		3/26/2014	Reick Terr, Vineland	8/1/2014
Damage, Gas	GS14090990K	GOC2010-0053	Failure to use reasonable care	\$1,000		Howard Payne	5/11/2010	Seton Rd, Lakewood	8/6/2014
Damage, Gas	GS14090991K	GOC2014-0097	Did not have a valid markout	\$3,000		Kurz Concrete	3/12/2014	Central Ave, Ocean City	8/15/2014
Damage, Gas	GS14090992K	GOC2014-0093	Did not have a valid markout	\$3,000		Mase Enterprises	3/28/2014	Lafayette Blvd, Brigantine	8/12/2014
Damage, Gas	GS14090993K	GOC2014-0122	Did not have a valid markout	\$3,000		PM Construction Group	4/18/2014	3rd Ave, Seaside Park	8/11/2014
Damage, Gas	GS14090994K	GOC2014-0062	Did not properly mark out	\$3,000	PSE&G		3/17/2014	Gatzmer Ave, Jamesburg	7/23/2014
Damage, Gas	GS14090995K	GOC2014-0019	Did not properly mark out	\$3,000	PSE&G		1/14/2014	Greenwood Ave, Wayne	7/28/2014
Damage, Gas	GS14090996K	GOC2014-0108	Did not properly mark out	\$3,000	PSE&G		4/28/2014	Pennington Rd, Ewing	7/30/2014
Damage, Gas	GS14090997K	GOC2014-0123	Did not have a valid markout	\$3,000		The Sprinkler Guy	4/17/2014	Barneqat Ave, Surf City	8/14/2014
Damage, Gas	GS14090999K	GOC2014-0051	Did not properly mark out	\$3,000	New Jersey Natural Gas		1/25/2014	Grand Central Ave, Lavallette	8/6/2014
Damage, Gas	GS14091000K	GOC2014-0164	Did not have a valid markout	\$3,000		Yannuzzi Demolition	5/17/2014	Riveredge Rd, Lincoln Park	8/15/2014
Damage, Gas	GS14091001K	GOC2014-0161	Did not have a valid markout	\$3,000		Tirrell Landscaping	5/15/2014	Beacon Ln, Point Pleasant	8/27/2014
Damage, Gas	GS14091002K	GOC2014-0016	Did not have a valid markout	\$3,000		Solar City	1/11/2014	Fork Landing Rd, Maple Shade	8/21/2014
Non Damage	AS14091003K	NOC2014-0024	Did not have a valid markout	\$1,000		Big Top Contractors	7/14/2014	Elizabeth Ave, Rahway	8/19/2014
Damage, Gas	GS14091004K	GOC2014-0109	Did not properly mark out	\$3,000	PSE&G		3/14/2014	Washington Ave, Bergenfield	9/5/2014
Damage, Gas	GS14091005K	GOC2014-0068	Did not properly mark out	\$3,000	PSE&G		3/11/2014	Elm Ave, Palmyra	9/5/2014
Damage, Gas	GS14091006K	GOC2014-0061	Did not properly mark out	\$3,000	PSE&G		1/12/2014	Cromwell Prkwy, Summit	9/5/2014

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 Bureau of One Call - Settlements -APPENDIX-October VIA-1 2014

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS14091007K	GOC2014-0091	Did not properly mark out	\$3,000	South Jersey Gas		3/25/2014	Derby Ave, Ventnor City	9/5/2014
Damage, Gas	GS14091008K	GOC2014-0305	Did not properly mark out	\$3,000	South Jersey Gas		6/26/2014	New Rd, Summers Point	9/5/2014
Damage, Gas	GS14091009K	GOC2014-0300	Did not properly mark out	\$3,000	South Jersey Gas		6/25/2014	Justin Ct, Harrison Twp	9/5/2014
Damage, Gas	GS14080859K	GOC2014-0036	Did not properly mark out	\$3,000	New Jersey Natural Gas		1/15/2014	Hwy 35 Lavalette	6/27/2014
Damage, Gas	GS14080860K	GOC2014-0078	Did not properly mark out	\$3,000	Elizabethtown Gas		2/24/2014	Essex Ave, Linden	7/25/2014
Damage, Gas	GS14080867K	GOC2013-0055	Did not have a valid markout	\$3,000		Marbro Inc.	10/4/2014	Radio Rd, Little Egg Harbor	7/18/2014
Damage, Gas	GS14080861K	GOC2014-0098	Did not properly mark out	\$3,000	South Jersey Gas		3/14/2014	Ventnor Ave, Atlantic City	7/23/2014
Damage, Gas	GS14091010K	GOC2014-0290	Did not have a valid markout	\$3,000		Steve Patrick Plumbing	6/19/2014	Grand Ave, West Cape May	9/5/2014
Damage, Gas	GS14091011K	GOC2014-0099	Did not have a valid markout	\$3,000		JMG Concrete	3/10/2014	Lafayette St, Cape May	9/3/2014
Total		36		\$98,000					