



Agenda Date: 01/21/15
Agenda Item: VIA

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 NOs. GS14121360K
et al. (see attached appendix)

Parties of Record:

Craig Lynch, Vice President, New Jersey Natural Gas Company
Jason Gambol, Stellar Electric, LLC.
Richard Neas, Vice President, Danella Construction Corp.
George Moore, City of Brigantine
Albert Campbell, Township of Wayne
Colin Schmitt, Manager, Baum Gardner House Lifting
Charles Denault, President, Interstate Storage and Pipeline Corporation
Mark Catania, pro se
Robert Scharrenberg, P&D Environmental Services
Mark Luncasa, Jeff Eldridge
Nieves Rodas, R. Brothers

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..."

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 provided on the Appendix submitted an Offer of Settlement to the Board for consideration. Each such Offer of Settlement is summarized in the Appendix. The Offers of Settlement were reviewed by the Board. After consideration of the matters, the Board **HEREBY FINDS** the Offers of Settlement, as provided in the Appendix, to be reasonable and in the public interest, and **HEREBY ACCEPTS** said Offers of Settlement in full satisfaction of the above referenced alleged violations of the Act.

By acceptance of the Offers of Settlement and the timely payment thereof, the excavator or operator waives any rights to a hearing, and the Board any rights to bring an action for civil penalties as permitted under Act. 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 of the Offers of Settlement 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 February 2, 2015.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED

DATED: 1/21/15

BOARD OF PUBLIC UTILITIES
BY:



RICHARD S. MROZ
PRESIDENT



JOSEPH L. FIORDALISO
COMMISSIONER



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA CHIVUKULA
COMMISSIONER

ATTEST:



KENNETH J. SHEEHAN
SECRETARY

**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. GS14121360K et al. (see attached appendix)**

SERVICE LIST

Craig Lynch
New Jersey Natural Gas Company
1415 Wyckoff Rd, P.O. Box 1464
Wall, NJ 07719-1464

Jason Gambol
Stellar Electric, LLC.
203 Woodstown Rd.
Sweedsboro, NJ 08085

Richard Neas
Danella Construction Corp.
2290 Butler Pike
Plymouth Meeting, PA 19462

George Moore
City of Brigantine
3605 Bayshore Ave.
Brigantine, NJ 08203

Albert Campbell
Township of Wayne
201 Dey Road
Wayne, NJ 07470

Colin Schmitt
Baum Gardner House Lifting
2628 Fire Rd., Suite 300 C
Egg Harbor Twp., NJ 08234

Charles Denault
Interstate Storage and Pipeline Corp.
1715 Burlington-Jacksonville Rd.
Bordentown, NJ 08505

Mark Catania
156 Osceola Rd.
Wayne, NJ 07470

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Division of Reliability & Security
Board of Public Utilities
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Division of Law
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029

Nieves Rodas
R. Brothers
39 South 5th Ave.
Long Branch, NJ 07740

Robert Scharrenberg
P&D Environmental Services
234 River Vale Rd.
River Vale, NJ 07675

Mark Luncasa
Jeff Eldridge
670 Spotswood Englishtown Rd.
Monroe, NJ 08831

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-January VIA 2015

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS14121360K	GOC2014-0150	Did not have a valid markout	\$3,000		Steller Electric, LLC	5/6/2014	W. 2nd St., Ship Bottom	11/1/2014
Non Damage	AS14121359K	NOC2014-0051	Did not have a valid markout	\$3,000		Danella Companies	9/5/2014	Whitman Terr., Pennsauken	11/10/2014
Non Damage	AS14121358K	NOC2014-0050	Did not have a valid markout	\$3,000		Danella Companies	9/5/2014	Whitman Terr., Pennsauken	11/10/2014
Damage, Gas	GS14121357K	GOC2014-0289	Did not have a valid markout	\$3,000		City of Brigantine	6/19/2014	North Shore Dr., Brigantine	11/5/2014
Non Damage	AS14121356K	NOC2014-0027	Did not have a valid markout	\$1,000		Wayne Water Department	7/14/2014	Baldwin Terr., Wayne	10/27/2014
Damage, Gas	GS14121355K	GOC2014-0416	Did not have a valid markout	\$3,000		Baum Gardner House Lifting	7/2/2014	Monmouth Ave., Ocean Gate	11/13/2014
Non Damage	AS14121354K	NOC2014-0008	Did not properly mark	\$1,000	Interstate Storage & Pipeline Co.		4/11/2014	West End Plaza, Fort Dix	11/6/2014
Damage, Gas	GS14121353K	GOC2014-0431	Did not have a valid markout	\$3,000		Mark Catania	7/10/2014	Teak Rd., Wayne NJ	11/14/2014
Damage, Gas	GS14121352K	GOC2014-0330	Did not properly mark	\$3,000	New Jersey Natural Gas		6/23/2014	Kathryn St., Chadwick Beach	11/12/2014
Damage, Gas	GS14121351K	GOC2014-0333	Did not properly mark	\$3,000	New Jersey Natural Gas		6/24/2014	Ridge Ave., Manasquan	11/12/2014
Damage, Gas	GS14121350K	GOC2014-0356	Did not have a valid markout	\$3,000		P&D Environmental Services	6/30/2014	Vermeer Dr., South Amboy	11/14/2014
Damage, Gas	GS14121349K	GOC2013-0083	Did not have a valid markout	\$3,000		Jeff Eldridge	10/4/2013	Championship Pkwy., Monroe	11/19/2014
Damage, Gas	GS14121348K	GOC2014-0609	Did not have a valid markout	\$3,000		R. Brothers	8/12/2014	Hance Rd., Fair Haven	11/20/2014
Total		13		\$35,000					