



Agenda Date: 6/17/15
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.GS15050568K)
et al. (see attached appendix)

Parties of Record:

- Craig Lynch**, NJ Natural Gas
- Charles Berenato**, Berenato Contractors
- Daniel Atanasio**, DPA Construction
- Christopher Minks**, Russo Development
- Matthew Glowacki**, Quad Construction
- Mike Vizzard**, GM White Electrical
- Dale Schifano**, Schifano Construction
- Jorge Gomes**, Carls Fencing
- William Woods**, D&D Trenchless Solutions
- Chuck McCrickard**, Bogush Plumbing
- Sean Cashman**, Cashman Landscaping
- Lorenza Redaelli**, L&L Paving

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 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.

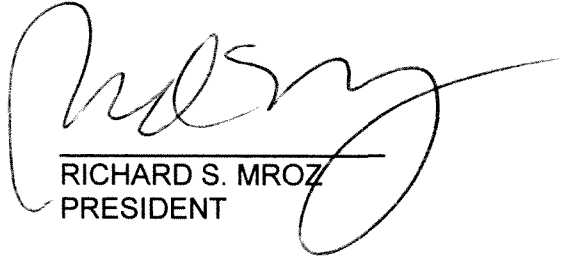
This Order shall be effective on June 26, 2015.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED

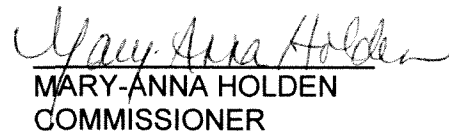
DATED:

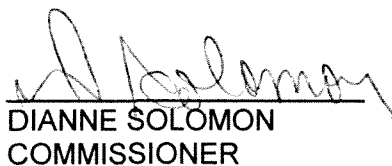
June 17, 2015

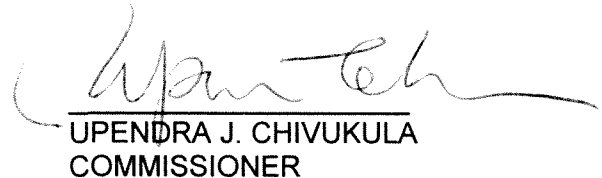
BOARD OF PUBLIC UTILITIES
BY:


RICHARD S. MROZ
PRESIDENT

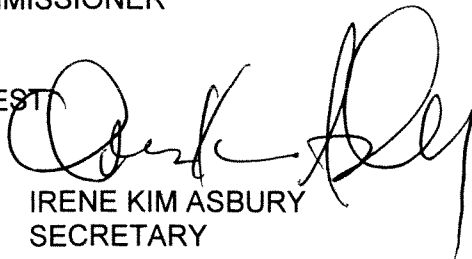

JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER

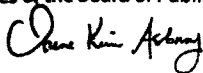

DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST


IRENE KIM ASBURY
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. GS15050568K et al. (see attached appendix)**

SERVICE LIST

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

Charles Berenato
Berenato Contractors
PO Box 496
Hammonton, NJ 08037

Daniel Atanasio
DPA Construction
137 Pecks Corner Cohansey Rd
Bridgeton, NJ 08302

Christopher Minks
Russo Development
570 Commerce Boulevard
Carlstadt, NJ 07072

Matthew Glowacki
Quad Construction
732 Eayrestown Rd.
Lumberton, NJ 08048

Mike Vizzard
GM White Electrical
2554 Delsea Dr.
Vineland, NJ 08360

Dale Schifano
Schifano Construction
1 Smalley Ave., PO Box 288
Middlesex, NJ 08846

Jorge Gomes
Carls Fencing
1579 Rt. 9
Toms River, NJ 08755

Chuck McCrickard
Bogush Plumbing
190 Main Ave.
Wallington, NJ 07057

Sean Cashman
Cashman Landscaping
10B Great Meadow Lane,
East Hanover, NJ 07936

Lorenza Redaelli
L&L Paving
3068 Shafto Rd.
Tinton Falls, NJ 07753

William Woods
D&D Trenchless Solutions
82 Railroad Ave.
Belford, NJ 07718

James Guiliano, Director
Division of Reliability & Security
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

James P. Kane, Esq.
Counsel's Office
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Geoffrey Gersten, DAG
Division of Law and Public Safety
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029

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-June 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	GS15050568K	GOC2015-0002	Did not properly mark out	\$3,000	NJ Natural Gas		1/2/2015	3rd Ave., Atlantic Highlands	3/13/2015
Damage, Gas	GS15050569K	GOC2014-0980	Did not properly mark out	\$3,000	NJ Natural Gas		10/3/2014	Newman Springs Rd., Lincroft	3/20/2015
Damage, Gas	GS15050570K	GOC2014-1104	Did not properly mark out	\$3,000	NJ Natural Gas		10/27/2014	Harvey Ave., Middletown	3/13/2015
Damage, Gas	GS15050571K	GOC2014-1040	Did not have a valid markout	\$3,000		Berenato Contractors	10/27/2014	Royden St., Camden	4/23/2015
Damage, Gas	GS15050572K	GOC2014-1072	Did not have a valid markout	\$3,000		DPA Construction	10/30/2014	Route 9, Swanton	4/17/2015
Damage, Gas	GS15050573K	GOC2014-0064	Did not have a valid markout	\$3,000		Russo Development	3/4/2014	Commerce Blvd., Carlstadt	4/10/2015
Damage, Cable	GS15050574K	COC2014-0066	Did not have a valid markout- Non Gas Damage	\$2,000		Quad Construction	9/15/2014	Brookline Ct., Montgomery	4/6/2015
Damage, Gas	GS15050575K	GOC2014-0847	Did not have a valid markout	\$3,000		GM White Electrical	9/26/2014	Pacific Ave., Atlantic City	3/27/2015
Damage, Gas	GS15050576K	GOC2014-1010	Did not have a valid markout	\$3,000		Schifano Construction	3/26/2015	Village Rd., Harding	4/6/2015
Damage, Gas	GS15050595K	GOC2014-0343	Did not have a valid markout	\$3,000		Carls Fencing	6/28/2014	Fishermans Rd., Normandy	4/6/2015
Non Damage	AS15050578K	NOC2014-0099	Did not have a valid markout- Emergency	\$1,000		D&D Trenchless Solutions	10/24/2014	Rhode Island Dr., Jackson	4/1/2015
Non Damage	AS15050579K	NOC2014-0110	Did not have a valid markout- Emergency	\$1,000		Bogush Plumbing	4/1/2014	94th St., Bergen	4/1/2015
Damage, Gas	GS15050580K	GOC2014-0263	Did not have a valid markout	\$3,000		Cashman Landscaping	6/16/2014	Galway Dr., Mendham	4/3/2015
Damage, Gas	GS15050559K	GOC2014-0922	Did not have a valid markout	\$3,000		L&L Paving	9/30/2014	Stagecoach Dr., Holmdel	4/21/2015
Total		14		\$37,000					