



Agenda Date: 09/11/15  
Agenda Item: VIB

**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/**

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. WS15080897K et al.**  
) **(see attached appendix)**

**Parties of Record:**

**Tom Shroba, New Jersey American Water**  
**Frank Coriano, Manager, Public Service Electric and Gas Company**  
**Phil Salvatore, Manager, Elizabethtown Gas Company**  
**John F. Stanziola, Manager, South Jersey Gas**  
**Bernard Smalls, Verizon**

BY THE BOARD:<sup>1</sup>

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.

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<sup>1</sup> President Richard S. Mroz and Commissioner Upendra J. Chivukula recused themselves due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

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 September 21, 2015.

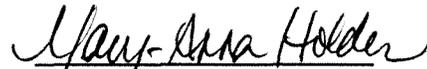
**NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED**

DATED:

*9/15 IKA 9/11/15*

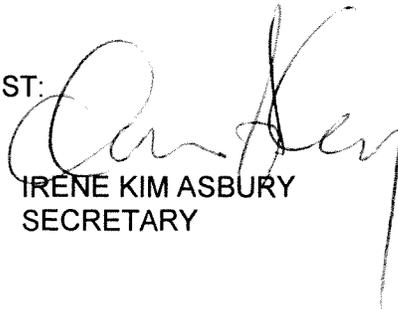
BOARD OF PUBLIC UTILITIES  
BY:

  
\_\_\_\_\_  
JOSEPH L. FIORDALISO  
COMMISSIONER

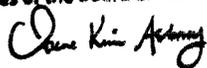
  
\_\_\_\_\_  
MARY-ANNA HOLDEN  
COMMISSIONER

  
\_\_\_\_\_  
DIANNE SOLOMON  
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 NOS. WS15080897K et al. (see attached appendix)**

**SERVICE LIST**

Tom Shroba  
NJ American Water  
1341 North Ave.  
Plainfield, NJ 07062

Frank Coriano  
Public Service Electric and Gas Company  
410 Silver Lake Rd  
Edison, NJ 08817

Phil Salvatore  
Elizabethtown Gas Company  
520 Green Lane  
Union, NJ 07083

John F. Stanziola  
South Jersey Gas  
1 South Jersey Plaza  
Folsom, NJ 08037

Bernard Smalls  
Verizon  
540 Broad St.  
Newark, NJ 17017

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James P. Kane, Esq.  
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Board of Public Utilities  
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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-September VIB 2015

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Water Damage	WS15080897K	WOC2014-0051	Did not properly mark out, non-gas	\$2,000	NJ American		7/14/2014	Union Ave, Union Beach	5/27/2015
Gas Damage	GS15080898K	GOC2014-0529	Did not properly mark out	\$3,000	PSE&G		7/25/2014	Maple Ave, Ridgefield	6/17/2015
Gas Damage	GS15080899K	GOC2014-1021	Did not properly mark out	\$3,000	PSE&G		10/10/2014	Reinhardt Rd, Wayne	6/17/2015
Gas Damage	GS15080900K	GOC2014-0366	Did not properly mark out	\$3,000	PSE&G		6/26/2014	Main St, Lodi	6/17/2015
Gas Damage	GS15080901K	GOC2014-1265	Did not properly mark out	\$3,000	PSE&G		12/11/2014	Market St, Elmwood Park	6/17/2015
Gas Damage	GS15080902K	GOC2014-0429	Did not properly mark out	\$3,000	PSE&G		7/7/2014	Outwater Ln, Garfield	6/17/2015
Gas Damage	GS15080903K	GOC2014-1034	Did not properly mark out	\$3,000	PSE&G		10/24/2014	US 1 & 9, Jersey City	6/15/2015
Gas Damage	GS15080904K	GOC2014-0997	Did not properly mark out	\$3,000	PSE&G		10/10/2014	32nd St, Camden	6/15/2015
Gas Damage	GS15080905K	GOC2014-0531	Did not properly mark out	\$3,000	PSE&G		7/29/2014	Kingston Ave, Barrington	6/15/2015
Gas Damage	GS15080906K	GOC2014-0820	Did not properly mark out	\$3,000	Elizabethtown Gas		10/1/2014	Davidson Ave, Perth Amboy	6/15/2015
Electric Damage	ES15080907K	EOC2014-0098	Did not properly mark out, non-gas	\$2,000	PSE&G		6/27/2014	Leesville Ave, Woodbridge	6/8/2015
Gas Damage	GS15080908K	GOC2014-0560	Did not properly mark out	\$3,000	PSE&G		8/11/2014	Round Top Dr, Bernardsville	6/1/2015
Gas Damage	ES15080909K	GOC2015-0018	Did not have a valid markout	\$3,000		PSE&G	1/15/2015	33rd St, Bayonne	5/27/2015
Gas Damage	GS15080910K	GOC2014-0992	Did not properly mark out	\$3,000	PSE&G		10/6/2014	Moonachie Ave, Carlstadt	6/1/2015
Gas Damage	GS15080911K	GOC2015-0032	Did not properly mark out	\$3,000	Elizabethtown Gas		1/8/2015	Moses Dr, Rahway	6/4/2015
Gas Damage	GS15080912K	GOC2014-0735	Did not properly mark out	\$3,000	South Jersey Gas		9/8/2014	Buttonwood St, Wenonah	6/10/2015
Gas Damage	GS15080913K	GOC2014-0947	Did not properly mark out	\$3,000	South Jersey Gas		10/14/2014	Braddock Dr, Somers Point	6/10/2015
Gas Damage	GS15080914K	GOC2014-0390	Did not have a valid markout	\$3,000		Verizon	7/9/2014	Liberty Ave, North Bergen	6/10/2015
Non Damage	AS15080943K	NOC2015-0005	Did not properly mark out, non-gas	\$1,000	Verizon		3/11/2015	Princeton Ave, Lawrence	6/5/2015
Gas Damage	GS15080944K	GOC2015-0093	Did not properly mark out	\$3,000	South Jersey Gas		2/4/2015	West Ave, Ocean City	7/23/2015
Gas Damage	GS15080945K	GOC2014-0944	Did not properly mark out	\$3,000	South Jersey Gas		10/9/2014	51st St, Sea Isle City	7/15/2015
Gas Damage	GS15080946K	GOC2014-1047	Did not properly mark out	\$3,000	Elizabethtown Gas		10/15/2014	Woodland Dr, Vernon	7/14/2015
Gas Damage	GS15080947K	GOC2014-1011	Did not properly mark out	\$3,000	PSE&G		10/14/2014	Park Ave, West Orange	7/13/2015
Gas Damage	GS15080948K	GOC2014-1032	Did not properly mark out	\$3,000	PSE&G		10/23/2014	2nd St, Plainfield	7/13/2015
Gas Damage	GS15080949K	GOC2014-0550	Did not properly mark out	\$3,000	PSE&G		8/7/2014	Clinton Ave, Plainfield	5/27/2015
Gas Damage	GS15080915K	GOC2015-0043	Did not properly mark out	\$3,000	PSE&G		1/21/2015	Oaks Rd, City of Orange	5/27/2015
Gas Damage	GS15080916K	GOC2014-0636	Did not properly mark out	\$3,000	PSE&G		8/22/2014	Random Rd, Princeton	7/13/2015
Gas Damage	GS15080917K	GOC2014-0873	Did not properly mark out	\$3,000	PSE&G		9/29/2014	Richard Ave, Caldwell	7/13/2015
<b>Total</b>		28		\$80,000					