



Agenda Date: 6/29/16
Agenda Item: VIA

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
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.GS16050446K
et al. (see attached appendix)

Parties of Record:

- Joseph Royce**, Royce Development
- David Descalzi**, Asphalt Solutions
- Nick Depoto**, Elizabethtown Gas
- Kevin Dunleavy**, Sunoco Pipeline L.P.
- Stephen Amplo**, Valhalla Design
- Mark Juliano**, Laurel Capital Group
- Luis Sarmiento Jr.**, Accurate Fence
- Rachel Cyzner**, Cyzner Properties
- Avery Teitler**, Padula Masonry
- Maria Diaz**, New Jersey Natural Gas
- Micheal Dwyer**, Sapphire Builders
- Dennis Mikula**, Mikula Contracting
- Matthew Bailey**, Bailey's Square
- Katie Goldstein**, High Tech Landscapes
- Robert Butwin**, ETC Companies
- Frank Coriano**, Public Service Electric and Gas
- John Hildabrant**, Aqua Water
- Thomas White**, Millbrook Irrigation
- Carey Chaney**, Amtrack Railroad Contractors
- Anthony Monzo**, Barbers Landscaping
- Steve Becker**, Becker's Tree Service
- Jessica Seney**, South State

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 \$1,000.00 and not more than \$2,500.00 per violation per day, not to exceed \$25,000.00 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 \$100,000.00 per violation per day and not to exceed \$1,000,000.00 for any related series of violations. N.J.S.A. 48:2-86(c). 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

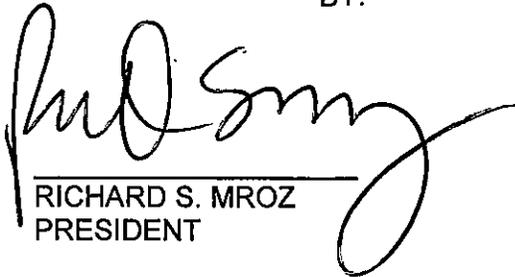
connection with the above-referenced alleged violations of the Act. It must also be noted that the acceptance of the Offers of Settlement are for settlement purposes only, and apply strictly to the specific incidents described in the Appendix. This acceptance is without prejudice as to the position of 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 July 9, 2016.

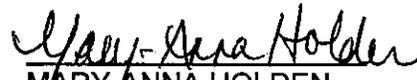
NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED

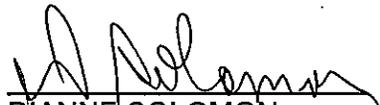
DATED: 6/29/16

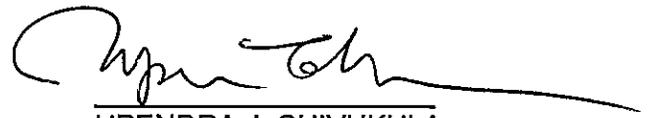
BOARD OF PUBLIC UTILITIES
BY:

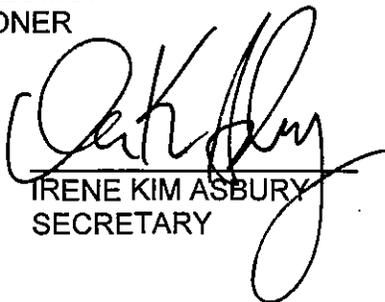

RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER

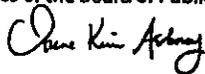

MARY-ANNA HOLDEN
COMMISSIONER


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. GS16050446K et al. (see attached appendix)**

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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 2016

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage Gas	GS16050446K	GOC2015-1509	DID NOT HAVE A VALID MARKOUT	\$3,000		ROYCE DEVELOPMENT	10/7/2015	WILLOWBROOK BLVD.	5/10/2016
Damage Gas	GS16050447K	GOC2015-1482	DID NOT HAVE A VALID MARKOUT	\$3,000		ASPHALT SOLUTIONS	10/5/2015	CHESNUT AVE., PLEASANTVILLE	4/8/2016
Damage Gas	GS16050448K	GOC2015-1505	DID NOT PROPERLY MARK	\$3,000	ELIZABETHTOWN GAS		10/16/2015	STANTON ST., CLARK	5/5/2016
Non Damage	AS16050449K	NOC2015-0077	NON DAMAGE	\$1,000		SUNOCO PIPELINE L.P.	8/5/2015	ALBERT ST., WOODBRIDGE	5/17/2016
Damage Gas	GS16050450K	GOC2015-1183	DID NOT HAVE A VALID MARKOUT	\$3,000		VALHALLA DESIGN	8/24/2015	AARON RD., NEW BRUNSWICK	5/19/2016
Damage Gas	GS16050451K	GOC2015-1453	DID NOT HAVE A VALID MARKOUT	\$3,000		MARK JULIANO LAUREL CAPITAL	9/24/2015	BEAVER AVE., MOUNT LAUREL	4/15/2016
Damage Gas	GS16050452K	GOC2015-1253	DID HAVE A VALID MARKOUT	\$3,000		ACCURATE FENCE	9/4/2015	KILLSIYTH RD., ELIZABETH	4/22/2016
Damage Cable	CS16050455K	COC2015-0037	VALID MARKOUT, NON GAS	\$1,000		CYZNER PROPERTIES	3/3/2015	RT-73 S., MARLTON	4/4/2016
Damage Gas	GS16050454K	GOC2014-0498	DID NOT HAVE A VALID MARKOUT	\$3,000		PADULA MASONRY	7/28/2014	WALNUT RD., OCEAN CITY	4/19/2016
Damage Gas	GS16050456K	GOC2015-1581	DID NOT PROPERLY MARK	\$3,000	NJ NATURAL GAS		10/16/2015	JAMAICA BLVD., TOMS RIVER	4/13/2016
Damage Gas	GS16050457K	GOC2015-0442	DID NOT HAVE A VALID MARKOUT	\$3,000		SAPPHIRE BUILDERS	4/27/2015	CURTIS AVE., POINT PLEASANT	5/16/2016
Damage Gas	GS16050458K	GOC2015-1562	DID NOT HAVE A VALID MARKOUT	\$3,000		MIKULA CONTRACTING	10/19/2015	SUSSEX ST., PATERSON	5/19/2016
Damage Gas	GS16050459K	GOC2015-1235	DID NOT HAVE A VALID MARKOUT	\$3,000		BAILEYS SQUARE	8/20/2015	TANGLEWOOD CT., FREEHOLD	5/19/2016
Damage Gas	GS16050460K	GOC2015-1735	DID NOT HAVE A VALID MARKOUT	\$3,000		HIGH TECH LANDSCAPES	11/18/2015	GIANNA DR., GLASSBORO	5/13/2016
Damage Gas	GS16050461K	GOC2015-1556	FAILED TO HAND DIG & LOCATE	\$3,000		ETC COMPANIES	10/23/2015	18TH AVE., NEWARK	5/18/2016
Damage Gas	GS16050462K	GOC2015-0861	DID NOT PROPERLY MARK	\$3,000	PSE&G		9/22/2015	EMMONS DR., WEST WINDSOR	4/15/2016
Damage Gas	GS16050463K	GOC2014-1031	DID NOT PROPERLY MARK	\$3,000	PSE&G		10/22/2014	CENTRAL AVE., HACKENSACK	4/18/2016
Damage Water	WS16050464K	WOC2015-0050	DID NOT PROPERLY MARK, NON-GAS	\$2,000	AQUA WATER		8/27/2015	ERIAL RD., BLACKWOOD	4/28/2016
Damage Gas	GS16050465K	GOC2015-1379	DID NOT PROPERLY MARK	\$3,000	NJ NATURAL GAS		9/21/2015	BRITTANY DR., FREEHOLD	4/13/2016
Damage Gas	GS16050466K	GOC2015-1375	DID NOT HAVE A VALID MARKOUT	\$3,000		MILLBROOK IRRIGATION	9/18/2015	SANBORN AVE., POINT PLEASANT	4/12/2016
Damage Gas	GS16050467K	GOC2014-0080	DID NOT PROPERLY MARK	\$3,000	ELIZABETHTOWN GAS		2/19/2014	PROSPECT ST., PERTH AMBOY	4/7/2016
Damage Electric	ES16050468K	EOC2015-0147	DID NOT PROPERLY MARK, NON-GAS	\$2,000	PSE&G		7/14/2015	WALNUT AVE., CRANFORD	4/1/2016
Damage Gas	GS16050469K	GOC2015-1224	FAILED TO USE CARE	\$3,000		AMTRAK RAILROAD	8/29/2015	IRVING AVE., BRIDGETON	5/17/2016
Damage Gas	GS16050470K	GOC2014-0112	DID NOT PROPERLY MARK	\$3,000	PSE&G		3/26/2014	RUTLAND AVE., MT. HOLLY	4/1/2016
Damage Gas	GS16050471K	GOC2015-1347	DID NOT HAVE A VALID MARKOUT	\$3,000		BARBERS LANDSCAPING	9/11/2015	AVALON AVE., AVALON	4/12/2016
Damage Gas	GS16050472K	GOC2015-1374	DID NOT HAVE A VALID MARKOUT	\$3,000		BECKERS TREE SERVICE	9/16/2015	MT. TABOR WAY, OCEAN GROVE	3/28/2016
Damage Electric	ES16050473K	EOC2015-0153	DID NOT PROPERLY MARK, NON-GAS	\$1,000	PSE&G		7/28/2015	ELM ST., WESTFIELD	2/26/2016
Damage Gas	GS16050474K	GOC2014-1012	DID NOT PROPERLY MARK	\$3,000	PSE&G		10/21/2014	RIDGEDALE AVE., HANOVER TWP.	4/12/2016
Damage Gas	GS16050475K	GOC2015-1625	FAILED TO MAINTAIN & PRESERVE	\$3,000		SOUTH STATE	10/22/2015	ERIAL RD., PINE HILL	4/26/2016
Damage Gas	GS16050476K	GOC2015-1620	FAILED TO USE CARE	\$3,000		SOUTH STATE	10/20/2015	CEDAR ST., MILLVILLE	4/26/2016
Total	30			\$82,000					