



Agenda Date: 2/22/2017
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. ES17010014K, et al.
) (see attached appendix)

Parties of Record:

- Donald Richards, JCP&L**
- Jack Lynch, Pennsville Water Department**
- William Tappin, South Jersey Gas**
- Sylvia Del Vecchio, Verizon**
- Vincenzo Leto, Batz Designs**
- Michael Donohue, PSE&G**
- Maria Diaz, New Jersey Natural Gas**
- Chris Garbooshian, C&G Landscaping**
- Kevin Muldoon, Rowan University Maintenance Department**
- Nick Depoto, Elizabethtown Gas**
- Colette Eason, Elecnor Hawkeye LLC**
- Bill Pembroke, KP Excavating**
- Brendan Koth, B. Koth Landscape**
- Alfred Renda, Ernest Renda Contracting**
- David Ientile, Tera Firma Excavating and Utility Contractor**
- Noah Curtis, NJC Stone**
- Paulo Matos, PM Construction**
- Antonio Pereira, PAX Construction**
- George Hillman, Metro Corp. Plumbing Inc.**
- Leah Wagner, Tirrell Landscaping**
- Thomas Zisa, Water Resource Technologies**
- Brian Hatfield, By Design Landscapes Inc.**
- Richard McLaughlin, J Fletcher Creamer**
- Guillermo Argote, 33 Irvington LLC Contractors**
- John Kelly, John Kelly Mechanical Contractor**
- Joseph Zargo, S. Batata Construction**

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

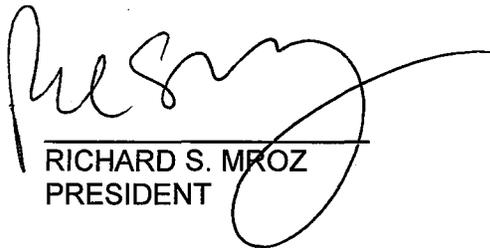
connection with the above-referenced alleged violations of the Act. It must also be noted that the acceptance of the Offers of Settlement are for settlement purposes only, and apply strictly to the specific incidents described in the Appendix. This acceptance is without prejudice as to the position of 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 March 4, 2017.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

DATED: 2/22/17

BOARD OF PUBLIC UTILITIES
BY:


RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER

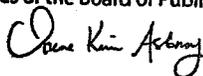

MARY-ANNA HOLDEN
COMMISSIONER


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. ES17010014K et al. (see attached appendix)**

SERVICE LIST

Donald Richards
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Folsom, NJ 08037

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Verizon
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PSE&G
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Clifton, NJ 07011

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Hillside, NJ 07205

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George Hillman
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Point Pleasant, NJ 08742

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Lakewood, NJ 08701

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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- FEBRUARY VIA 2017

Damage Type	BPU Dkt. No.	One-Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage Electric	ES17010014K	EOC2016-0037	Did not properly mark	\$2,000	JCP&L		5/2/2016	Meeker Rd., Basking Ridge	12/15/2016
Non-Damage	WS17010015K	NOC2015-0080	Did not properly mark	\$1,000	Pennsville Water Department		8/12/2015	N. Broadway, Pennsville	12/2/2016
Non-Damage	GS17010016K	NOC2015-0090	Did not properly mark	\$3,000	South Jersey Gas		3/2/2015	Old Egg Harbor Rd., Egg Harbor Township	12/2/2016
Non-Damage	TS17010017K	NOC2016-0029	Did not properly mark	\$1,000	Verizon		5/25/2016	U.S. 9, Freehold	12/7/2016
Damage Gas	GS17010020K	GOC2014-0434	Did not have a valid markout	\$3,000		Batz Designs	7/14/2014	Malcolm Ave., Garfield	11/21/2016
Damage Gas	GS17010019K	GOC2015-0451	Did not properly mark	\$3,000	PSE&G		4/29/2015	Franklin Ave., Wyckoff	12/7/2016
Damage Gas	GS17010018K	GOC2015-0832	Did not properly mark	\$3,000	NJNG		6/19/2015	Dr. M.L.K. Dr., Lakewood Township	11/16/2016
Damage Gas	GS17010021K	GOC2015-0838	Did not properly mark	\$3,000	NJNG		6/22/2015	Ave. of Two Rivers, Rumson	11/16/2016
Damage Gas	GS17010022K	GOC2015-0850	Did not properly mark	\$3,000	NJNG		6/24/2015	Lloyd Rd., Aberdeen Township	11/16/2016
Damage Gas	GS17010024K	GOC2016-0103	Did not properly mark	\$3,000	NJNG		2/11/2016	Kirkbride Terrace, Towaco	11/16/2016
Damage Gas	GS17010025K	GOC2016-0127	Did not have a valid markout	\$3,000		C&G Landscaping	2/18/2016	Sunset Dr. S., Toms River	11/29/2016
Damage Gas	GS17010026K	GOC2016-0130	Did not properly mark	\$3,000	NJNG		2/22/2016	Main St., Matawan	11/16/2016
Damage Gas	GS17010027K	GOC2016-0133	Did not properly mark	\$3,000	NJNG		2/25/2016	W. Arverne Ave., Ocean Gate	11/16/2016
Damage Gas	GS17010028K	GOC2016-0202	Did not have a valid markout	\$3,000		Rowan University Maintenance Dept.	3/7/2016	Whitney Ave., Glassboro	12/9/2016
Damage Gas	GS17010029K	GOC2016-0212	Did not properly mark	\$3,000	Elizabethtown Gas		3/23/2016	Greenwood Terrace, Hillside	11/28/2016
Damage Gas	GS17010030K	GOC2016-0225	Did not properly mark	\$3,000	PSE&G		3/8/2016	U.S. 9, Old Bridge	9/22/2016
Damage Gas	GS17010031K	GOC2016-0339	Did not have a valid markout	\$3,000		Elecnor Hawkeye LLC	4/4/2016	Park Pl., Absecon	11/22/2016
Damage Gas	GS17010032K	GOC2016-0370	Failure to hand dig and locate	\$3,000		KP Excavating	4/21/2016	Bergen Ave., Kearny	11/29/2016
Damage Gas	GS17010033K	GOC2016-0394	Did not properly mark	\$3,000	Elizabethtown Gas		4/29/2016	Hillside Ave., Hillside	11/28/2016
Damage Gas	GS17010034K	GOC2016-0403	Did not have a valid markout	\$3,000		B Koth Landscape	4/28/2016	Riverside Way, River Edge	12/13/2016
Non-Damage	GS17010035K	GOC2016-0434	Did not properly mark	\$3,000	NJNG		4/19/2016	Belknap Ln., Rumson	11/16/2016
Damage Gas	GS17010036K	GOC2016-0467	Did not properly mark	\$3,000	PSE&G		5/6/2016	Orange Ave., Irvington	12/14/2016
Damage Gas	GS17010037K	GOC2016-0593	Failure to hand dig and locate	\$3,000		Ernest Renda Contracting	6/1/2016	Lincoln Ave. E., Cranford	11/25/2016
Damage Gas	GS17010038K	GOC2016-0596	Failure to hand dig and locate	\$3,000		Tera Firma Exc. & Utility Contractor	5/16/2016	Williams St., Lakewood Township	12/5/2016
Damage Gas	GS17010043K	GOC2016-0598	Did not have a valid markout	\$3,000		NJC Stone	5/18/2016	N. Main St., Wharton	12/5/2016
Damage Telephone	GS17010044K	GOC2016-0605	Failure to hand dig and locate	\$3,000		PM Construction	5/23/2016	Liberty St. & Central Pl., Long Branch	12/5/2016
Damage Gas	GS17010045K	GOC2016-0686	Did not have a valid markout	\$3,000		PAX Construction	6/6/2016	Harbor Dr., Rumson	11/29/2016
Damage Gas	GS17010046K	GOC2016-0688	Failure to hand dig and locate	\$3,000		Metro Corp. Plumbing Inc.	6/9/2016	Pine Park Ave., Lakewood	11/21/2016
Damage Gas	GS17010047K	GOC2016-0716	Did not properly mark	\$3,000	PSE&G		6/2/2016	21st St., Irvington	12/14/2016

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- FEBRUARY VIA 2017

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage Gas	GS17010048K	GOC2016-0786	Did not have a valid markout	\$3,000		Tirrell Landscaping	6/15/2016	Chicopee Ave., Point Pleasant Beach	12/15/2016
Damage Gas	GS17010049K	GOC2016-0793	Failure to use reasonable care	\$3,000		Water Resource Technologies	6/20/2016	Old Boonton Rd., Denville	12/8/2016
Damage Gas	GS17010050K	GOC2016-0796	Failure to use reasonable care	\$3,000		By Design Landscapes Inc.	6/22/2016	Ocean Front, Point Pleasant Beach	11/11/2016
Damage Gas	GS17010051K	GOC2016-0821	Failure to hand dig and locate	\$3,000		J Fletcher Creamer	7/9/2016	Tracy Dr., Woodbridge Township	12/14/2016
Damage Gas	GS17010052K	GOC2016-0838	Did not have a valid markout	\$3,000		33 Irvington LLC Contractors	7/15/2016	Lenape Way, Scotch Plains	12/10/2016
Damage Gas	GS17010053K	GOC2016-0943	Failure to hand dig and locate	\$3,000		John Kelly Mechanical Contractor	7/15/2016	11th Ave., Belmar	12/9/2016
Damage Gas	GS17010054K	GOC2016-1282	Failure to hand dig and locate	\$3,000		S. Batata Construction	9/12/2016	E. Surrey Ave., Northfield	12/15/2016
Damage Gas	GS16090902K	GOC2015-1413	Did not properly mark out	\$3,000	PSE&G		9/29/2015	W. Lawn Rd., Livingston	6/20/2016
Damage Gas	GS16090899K	GOC2015-1712	Did not properly mark out	\$3,000	PSE&G		11/18/2015	Mt. Holly Ave., Mt. Holly	6/30/2016
Damage Gas	GS16090901K	GOC2015-1844	Did not properly mark out	\$3,000	PSE&G		12/2/2015	Palisade Ave., Fort Lee	7/11/2016
Total	39			\$112,000					