



Agenda Date: 6/30/2017
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. TS17050466K, et. al.
(see attached appendix)

Parties of Record:

Sylvia Del Vecchio, Verizon
Nick Depoto, Elizabethtown Gas
Maria Diaz, New Jersey Natural Gas
Vincenzo Farro, D&L Paving Contractors, Inc
Jeffrey Andino, Flores & Sons
Jeffrey Bailey, Haskell Paving, Inc.
Scott Vigar, Allied Fire & Safety Equipment
Paul Boyd, John Boyd, Inc
Michael Donohue, PSE&G
Charles Fasciano, Ferreira Construction
Edward Phillip, YMCA of Wayne
Salvatore Pipitone, F&S Produce Co., Inc.
Melissa Kane, Kane Communications, LLC
Jonathan Beer, Two Rivers Construction
Jay Philip Eriv, Grounds Keeper
Joe Bihler, NJ American Water
Paula James, Atlantic City Electric
Alex Belluscio, Belluscio & Sons Masonry
Diane Corselli, Prince of Pools Septic, Inc.
Richard McLaughlin, J Fletcher Creamer
George Corriveau, Cable Utilities, Inc.
Gladson Samuel, Tomar Construction
Joao Medeiros, Jo-Med Construction
Anthony Cambria, Esq., Dipasquale Fence
Ron Fiorilli, All County Sewer
John Weidelman, JGW Masonry
Dennis Shennard II, Groundmasters, Inc.
Mark Hinlicky, Sprinkler Master
Glenn Geoffrey, Total Landscaping
George Adams, pro se
Dennis Brophy Jr., Waters and Bugbee
Bill Tappin, South Jersey Gas

Greg Anderson, Runnemedede Sewer Utility
Antonio Ferraro, A.T. Ferraro Developer
Patricia Gianotto, Franklin Electric Co.
Frank Pinho, P & A Construction
James Diaz, Jackson Township MUA

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.

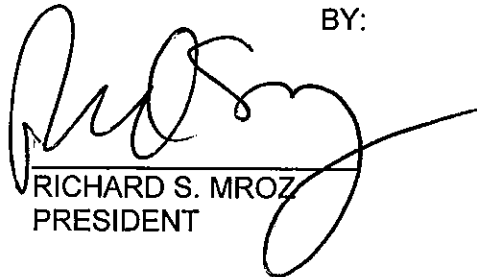
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Underground Facility Protection Act in connection with the above-referenced 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 10, 2017.

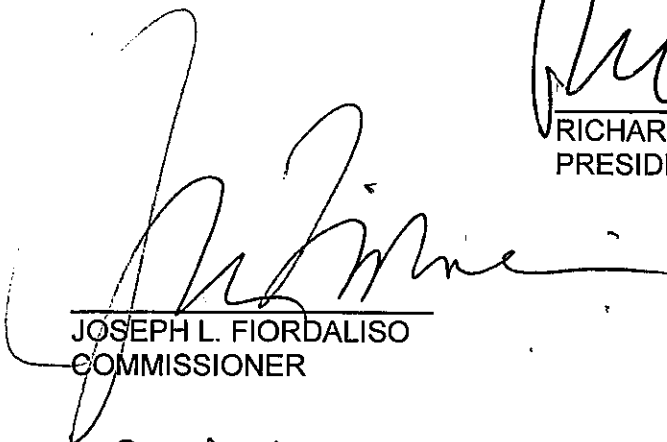
NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

DATED: 6/30/17

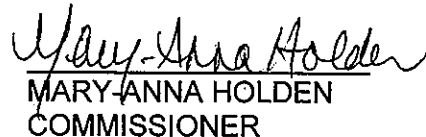
BOARD OF PUBLIC UTILITIES
BY:



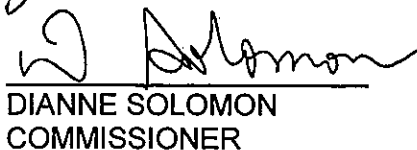
RICHARD S. MROZ
PRESIDENT



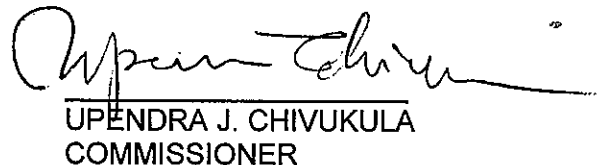
JOSEPH L. FIORDALISO
COMMISSIONER



MARY-ANNA HOLDEN
COMMISSIONER



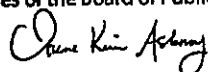
DIANNE SOLOMON
COMMISSIONER



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. TS17050466K 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 2017

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Telephone	TS17050466K	TOC2014-0144	Failure to report damage to BPU	\$3,000	Verizon		3/31/2014	Adams Ln., North Brunswick	2/22/2017
Damage, Gas	GS17050467K	GOC2015-1210	Did not properly mark out	\$3,000	Elizabethtown Gas		8/28/2015	Morris Ave., Union	5/26/2016
Damage, Gas	GS17050470K	GOC2015-1264	Did not properly mark out	\$3,000	Elizabethtown Gas		8/24/2015	Shafer Ave., Phillipsburg	5/24/2016
Damage, Gas	GS17050471K	GOC2015-1307	Did not properly mark out	\$3,000	NJ Natural Gas		9/2/2015	NJ-37, Toms River	3/8/2017
Damage, Gas	GS17050472K	GOC2015-1605	Did not have a valid markout	\$3,000		D&L Paving Contractors, Inc.	10/30/2015	Cobb Rd., Mountain Lakes	3/13/2017
Damage, Gas	GS17050473K	GOC2015-1758	Did not have a valid markout	\$3,000		Flores & Sons	11/19/2015	Montclair Rd. N., Barnegat	3/16/2017
Damage, Gas	GS17050474K	GOC2015-1797	Did not properly mark out	\$3,000	Elizabethtown Gas		12/7/2015	Sandy Hill Rd., Westfield	5/31/2016
Damage, Gas	GS17050475K	GOC2015-1915	Did not have a valid markout	\$3,000		Flores & Sons	12/28/2015	Holly Dr., Loveladies	3/16/2017
Damage, Gas	GS17050476K	GOC2016-0166	Did not properly mark out	\$3,000	Elizabethtown Gas		3/9/2016	Wall St., Rahway	9/1/2016
Damage, Gas	GS17050477K	GOC2016-0427	Failure to use reasonable care	\$3,000		Haskell Paving, Inc.	4/15/2016	Bridgeton Dr., Parsippany	3/1/2017
Damage, Gas	GS17050478K	GOC2016-0446	Did not have a valid markout	\$3,000		Allied Fire & Safety Equipment	4/28/2016	Green Grove Rd., Neptune	4/7/2017
Damage, Gas	GS17050479K	GOC2016-0611	Failure to hand dig and locate	\$3,000		John Boyd, Inc.	5/20/2016	Holmdel Rd., Holmdel	4/4/2017
Damage, Gas	GS17050480K	GOC2016-0690	Did not properly mark out	\$3,000	PSE&G		6/6/2016	Maple St., Ramsey	3/16/2017
Damage, Gas	GS17050481K	GOC2016-0713	Failure to use reasonable care	\$3,000		Ferreira Construction	6/17/2016	Manchester Ave., North Haledon	3/10/2017
Damage, Gas	GS17050482K	GOC2016-0777	Did not have a valid markout	\$3,000		YMCA of Wayne	6/15/2016	Pike Dr., Wayne	3/10/2017
Damage, Gas	GS17050502K	GOC2015-1147	Did not properly mark out	\$3,000	NJ Natural Gas		8/5/2015	Taylor St., Rockaway	11/9/2016
Damage, Gas	GS17050503K	GOC2016-0234	Did not properly mark out	\$3,000	PSE&G		3/29/2016	Maple St., Haworth	9/8/2016
Damage, Gas	GS17050504K	GOC2016-0995	Failure to hand dig and locate	\$3,000		F&S Produce Co., Inc.	7/21/2016	Kenyon Ave., Deerfield	12/21/2016
Damage, Gas	GS17050505K	GOC2016-1078	Did not properly mark out	\$3,000	PSE&G		8/15/2016	Brookside Rd., Randolph	3/3/2017
Damage, Gas	GS17050506K	GOC2016-1098	Did not properly mark out	\$3,000	PSE&G		8/1/2016	Morningside Dr., Livingston	2/24/2017
Damage, Gas	GS17050507K	GOC2016-1100	Did not properly mark out	\$3,000	PSE&G		8/3/2016	Raider Blvd., Hillsborough	3/3/2017
Damage, Gas	GS17050508K	GOC2016-1104	Did not properly mark out	\$3,000	PSE&G		8/10/2016	Sumner Ave., Plainfield	3/3/2017
Damage, Gas	GS17050509K	GOC2016-1126	Did not properly mark out	\$3,000	PSE&G		8/29/2016	Harper St., Newark	3/2/2017
Damage, Gas	GS17050510K	GOC2016-1130	Did not properly mark out	\$3,000	PSE&G		8/2/2016	French St., New Brunswick	3/2/2017
Damage, Telephone	GS17050511K	GOC2016-1154	Failure to use reasonable care	\$3,000		Kane Communications, LLC	8/31/2016	Edinburg Rd., Trenton	3/6/2017
Damage, Gas	GS17050512K	GOC2016-1167	Failure to hand dig and locate	\$3,000		Two Rivers Construction	8/18/2016	Ocean Ave., Sea Bright	3/17/2017
Damage, Gas	GS17050513K	GOC2016-1196	Did not have a valid markout	\$3,000		Grounds Keeper	8/31/2016	Cindy Lane, Holmdel	4/10/2017

IN THE MATTER OF:
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Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS17050514K	GOC2016-1231	Did not properly mark out	\$3,000	PSE&G		9/1/2016	Main St., South Bound Brook	3/3/2017
Damage, Water	WS17050515K	WOC2015-0014	Did not properly mark out	\$2,000	NJ American Water		1/5/2015	Maple Terrace, Millstone	4/24/2017
Damage, Cable	CS17050516K	COC2016-0101	Did not have a valid markout	\$2,000		Belluscio & Sons Masonry	4/20/2016	4th Ave., Barnegat	4/21/2017
Non-damage	TS17050517K	NOC2016-0036	Did not properly mark out	\$3,000	Verizon		5/3/2016	Holmdel Rd., Holmdel	4/21/2017
Damage, Water	WS17050518K	WOC2016-0025	Did not properly mark out	\$2,000	NJ American Water		6/14/2016	South 5th Street, Elizabethport	3/29/2017
Damage, Electric	ES17050519K	EOC2016-0095	Did not properly mark out	\$2,500	Atlantic City Electric		4/25/2016	Heritage Loop, Glassboro	3/14/2017
Damage, Electric	ES17050520K	EOC2016-0101	Did not properly mark out	\$2,500	Atlantic City Electric		5/12/2016	Cummings Court, Sewell	3/14/2017
Damage, Electric	ES17050528K	EOC2016-0105	Did not properly mark out	\$2,500	Atlantic City Electric		6/13/2017	Dunlin Way, Sicklerville	3/14/2017
Damage, Electric	ES17050521K	EOC2016-0107	Did not properly mark out	\$2,500	Atlantic City Electric		6/16/2017	North High Street, Glassboro	3/14/2017
Damage, Gas	GS17050563K	GOC2015-1010	Did not properly mark out	\$3,000	PSE&G		7/28/2015	Grant Ave., Hightstown	4/24/2017
Damage, Gas	GS17050564K	GOC2016-0043	Did not have a valid markout	\$3,000		Prince of Pools Septic, Inc.	1/11/2016	Roberta Drive, Howell	3/3/2017
Damage, Gas	GS17050565K	GOC2016-0175	Failure to hand dig and locate	\$3,000		J Fletcher Creamer	3/2/2016	Woodside Ave., Midland Park	4/19/2017
Damage, Gas	GS17050566K	GOC2016-0200	Did not have a valid markout	\$3,000		Cable Utilities, Inc.	3/18/2016	College Rd. E., Plainsboro	4/6/2017
Damage, Gas	GS17050567K	GOC2016-0554	Did not have a valid markout	\$3,000		Tomar Construction	5/24/2016	Memorial Drive, Paterson	4/17/2017
Damage, Gas	GS17050568K	GOC2016-0692	Did not properly mark out	\$3,000	PSE&G		6/10/2016	High Mountain Rd., Haledon	5/2/2017
Damage, Gas	GS17050569K	GOC2016-0702	Did not have a valid markout	\$3,000		Jo-Med Construction	6/13/2016	Elizabeth Ave., Elizabeth	4/20/2017
Damage, Gas	GS17050570K	GOC2016-0714	Did not properly mark out	\$3,000	PSE&G		6/20/2016	North 8th Street, Paterson	4/28/2017
Damage, Gas	GS17050571K	GOC2016-0813	Did not have a valid markout	\$3,000		Dipasquale Fence	6/30/2016	Cheesequake Rd., Old Bridge	4/19/2017
Damage, Gas	GS17050572K	GOC2016-0827	Did not properly mark out	\$3,000	PSE&G		6/30/2016	Route 18, East Brunswick	4/17/2017
Damage, Gas	GS17050573K	GOC2016-0891	Did not have a valid markout	\$3,000		All County Sewer	7/23/2016	Dunn Parkway, Mountainside	4/20/2017
Damage, Gas	GS17050574K	GOC2016-0892	Did not properly mark out	\$3,000	Elizabethtown Gas		7/26/2016	Glencourt Avenue, Edison	4/4/2017
Damage, Gas	GS17050575K	GOC2016-0903	Did not properly mark out	\$3,000	Elizabethtown Gas		7/27/2016	Fay St., Edison	4/4/2017
Damage, Gas	GS17050576K	GOC2016-0955	Failure to hand dig and locate	\$3,000		JGW Masonry	7/22/2016	Aumack Avenue, Union Beach	4/20/2017
Damage, Gas	GS17050577K	GOC2016-1035	Did not have a valid markout	\$3,000		Total Landscaping	8/3/2016	Ward Dr., Brick	5/1/2017
Damage, Gas	GS17050578K	GOC2016-1084	Did not properly mark out	\$3,000	PSE&G		8/17/2016	Morningside Ave., Fairview	4/5/2017
Damage, Gas	GS17050579K	GOC2016-1091	Failure to use reasonable care	\$3,000		Groundmasters, Inc.	8/19/2016	Plainsboro Road, Plainsboro	5/3/2017
Damage, Gas	GS17050580K	GOC2016-1113	Did not properly mark out	\$3,000	PSE&G		8/13/2016	Old Road, Livingston	4/17/2017

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Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage Gas	GS17050581K	GOC2016-1117	Did not properly mark out	\$3,000	PSE&G		8/23/2016	Claremont Avenue, Maplewood	4/27/2017
Damage Gas	GS17050582K	GOC2016-1141	Did not properly mark out	\$3,000	PSE&G		8/26/2016	Columbia Avenue, Milltown	4/4/2017
Damage Gas	GS17050583K	GOC2016-1142	Did not properly mark out	\$3,000	PSE&G		8/27/2016	North 8th Avenue, Edison	4/4/2017
Damage Gas	GS17060610K	GOC2016-1177	Failure to hand dig and locate	\$3,000		Sprinkler Master	8/23/2016	Sleepy Hollow Rd., Middletown	4/21/2017
Damage Gas	GS17060611K	GOC2016-1212	Did not have a valid markout	\$3,000		George Adams	8/27/2016	Prince Lane, Monroe	5/4/2017
Damage Gas	GS17060612K	GOC2016-1265	Failure to use reasonable care	\$3,000		Waters & Bugbee	9/15/2016	Lily Street, Paterson	4/10/2017
Damage Gas	GS17060613K	GOC2016-1280	Did not properly mark out	\$3,000	South Jersey Gas		9/8/2016	Becker Drive, Vineland	4/10/2017
Damage Gas	GS17060614K	GOC2016-1289	Did not have a valid markout	\$3,000		Runnemedede Sewer Utility	9/13/2016	Union Avenue, Runnemedede	4/13/2017
Damage Gas	GS17060615K	GOC2016-1298	Did not have a valid markout	\$3,000		A.T. & Ferraro Developer	9/22/2016	Park Avenue, Edison	4/11/2017
Damage Gas	GS17060616K	GOC2016-1351	Did not properly mark out	\$3,000	Elizabethtown Gas		9/27/2016	Franklin Terrace, Roselle	4/4/2017
Damage Gas	GS17060617K	GOC2016-1364	Did not properly mark out	\$3,000	PSE&G		9/29/2016	Columbia Avenue, North Bergen	4/5/2017
Damage Gas	GS17060618K	GOC2016-1346	Did not have a valid markout	\$3,000		Franklin Electric Co.	9/6/2016	Cranbury Half Acre Rd.	5/4/2017
Damage Gas	GS17060619K	GOC2016-1292	Did not properly mark out	\$3,000	South Jersey Gas		9/14/2016	Asbury Road, Egg Harbor	3/31/2017
Damage Gas	GS17060620K	GOC2016-0856	Failure to use reasonable care	\$3,000		P & A Construction	7/7/2016	Arlryn Drive, Howell	3/30/2017
Damage Gas	GS17060621K	GOC2015-1580	Failure to hand dig and locate	\$3,000		P & A Construction	10/16/2015	Veeder lane, Bayville	3/30/2017
Damage Gas	GS17060622K	GOC2016-1247	Did not properly mark out	\$3,000	PSE&G		9/14/2016	Whittingham Terrace, Millburn	4/6/2017
Damage Gas	GS17060623K	GOC2016-0261	Did not have a valid markout	\$3,000		Jackson Township Public Works	3/29/2016	Kimberly Street, Jackson	3/23/2017
Damage Gas	GS17060624K	GOC2015-0849	Did not properly mark out	\$3,000	NJ Natural Gas		6/24/2015	Lloyd Road, Aberdeen	11/9/2016
Damage Gas	GS17060625K	GOC2015-1703	Did not properly mark out	\$3,000	NJ Natural Gas		11/9/2015	Legacy Court, Howell	11/9/2016
Damage Gas	GS17060626K	GOC2015-1371	Did not properly mark out	\$3,000	NJ Natural Gas		9/18/2015	25th Street, Long Beach	11/9/2016
Damage Gas	GS17060627K	GOC2016-0500	Did not properly mark out	\$3,000	NJ Natural Gas		5/12/2016	Rainbow Trail, Parsippany	11/9/2016
Damage Gas	GS17060628K	GOC2016-0143	Did not properly mark out	\$3,000	NJ Natural Gas		2/29/2016	Cold Indian Springs Rd., Ocean	11/9/2016
Total	76			\$223,000					