



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
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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. TS18050531K,
) et al. (see attached appendix)

Parties of Record:¹

- Stacy A. Mitchell**, South Jersey Gas Company
- Nick Depoto**, Elizabethtown Gas
- Michael Donahue**, Public Service Electric & Gas
- Wes Covely**, Pioneer Pipe Contractors, Inc.
- Sylvia DelVeccio**, Verizon
- Nick Pinto**, New Jersey American Water
- Laura Puszcz**, Evesham Municipal Utilities
- Henrique Santos**, Mira Construction
- Jason Peckham**, Allshore Plumbing Heating & Cooling
- Mohan Myneni**, Myneni, Inc.
- Betty Ann Bun**, Henkles & McKoy
- Richard McIntyre**, Assunca Bros. Inc.
- Rory Senseman**, South State, Inc., General Contractors
- John Faccas**, Quality Electrical Construction Co.
- Paul Leo**, Green Park Co., Inc.
- Maurizio Pepe**, Pepe Paving
- Eric Lawson**, Manchester Septic & Excavating
- Cuntis Stoclen**, J. Gatarz & Sons

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

¹ Commissioner Robert M. Gordon recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

Prevention System ("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 Act in connection with the above-

referenced alleged violations. 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 2, 2018.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

DATED: 6/22/18

BOARD OF PUBLIC UTILITIES
BY:



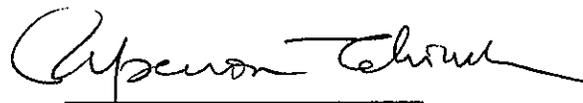
JOSEPH L. FIORDALISO
PRESIDENT



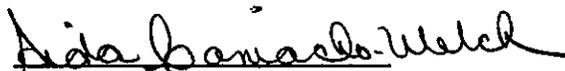
MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST: 

AIDA CAMACHO-WELCH
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities.

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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 20 VIA 2018

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, MUA	TS18050531K	NOC2017-0085	Did not properly mark out	\$2,000	Evesham MUA		11/14/2017	Blueberry Court, Evesham	1/31/2018
Damage, Water	WS1805532K	NOC2017-0084	Did not properly mark out	\$3,000	NJ American Water		11/16/2017	Main Street, Peapack Gladstone	1/31/2018
Damage, Phone	TS18050533K	NOC2017-0083	Did not properly mark out	\$3,000	Verizon		11/11/2017	Howard Ave., East Greenwich	1/30/2018
Damage, Gas	GS18050553K	NOC2017-0082	Did not properly mark out	\$3,000	Verizon		12/02/2017	Red Rock Trail, Saddle River	1/30/2018
Damage, Telepho	TS18050535K	NOC2017-0081	Did not properly mark out	\$3,000	Verizon		12/02/2017	Railroad Ave., Ridgefield	1/30/2018
Damage, Electric	ES18050536K	NOC2018-0010	Did not properly mark out	\$3,000	PSE&G		11/14/2017	Colony Court, Franklin	12/28/2017
Damage, Electric	ES18050537K	NOC2017-0080	Did not properly mark out	\$3,000	PSE&G		11/28/2017	Republic Drive, Monroe Twp	12/28/2017
Damage, Gas	GS18050538K	NOC2017-0079	Did not properly mark out	\$3,000	PSEG		12/05/2017	Old New Brunswick Rd. Piscataway	12/28/2017
Damage, Gas	ES18050539K	NOC2017-0078	Did not properly mark out	\$3,000	PSEG		11/28/2017	Anthem Street, Monroe	12/28/2017
Damage, Gas	GS18050540K	NOC2017-0077	Did not properly mark out	\$3,000	E'Town Gas		12/07/2017	Fox Chase Drive, Readington	2/15/2018
Damage, MUA	TS18050541K	NOC2017-0076	Did not properly mark out	\$2,000	Evesham MUA		11/14/2017	Magnolia Court, Evesham	1/31/2018
Damage, MUA	TS18050542K	NOC2018-0009	Did not properly mark out	\$3,000	Verizon		11/29/17	Fomalhaut Ave., Washington	2/26/2018
Damage, Telepho	TS18050544K	NOC2017-0065	Did not properly mark out	\$3,000	Verizon		12/06/2017	Railroad Ave., Ridgefield	1/30/2018
Damage, Telepho	TS18050545K	NOC2017-0066	Did not properly mark out	\$3,000	Verizon		12/06/2017	Arnold Ave., Pt. Pleasant	1/30/2018
Damage, Telepho	GS18050546K	NOC2017-0067	Did not properly mark out	\$3,000	Verizon		12/02/2017	Red Rock Trail, Saddle River	1/30/2018
Damage, Telepho	TS18050547K	NOC2017-0068	Did not properly mark out	\$3,000	Verizon		12/19/2017	Howard Ave., East Greenwich	1/30/2018
Damage, Electric	ES18050548K	NOC2017-0070	Did not properly mark out	\$3,000	PSE&G		12/12/2017	Railroad Ave., Ridgefield	1/18/2018
Damage, Gas	GS18050548K	NOC2017-0064	Did not properly mark out	\$3,000	PSE&G		11/15/17	Evans Ave., Piscataway	12/27/2017
Damage, Electric	ES18050550K	NOC2017-0069	Did not properly mark out	\$3,000	PSE&G		12/11/2017	Stony Brook Dr., Warren	12/27/2017
Damage, Electric	ES18050551K	NOC2017-0071	Did not properly mark out	\$3,000	PSE&G		12/05/2017	Ward Avenue, Westwood	02/13/2018
Damage, Electric	ES18050552K	NOC2017-0072	Did not properly mark out	\$3,000	PSE&G		11/15/2017	Evans Ave., Piscataway	12/27/2017
Damage, Telepho	TS18050565K	NOC2017-0024	Did not properly mark out	\$3,000	Verizon		07/07/2017	State Rte. 34, Marlboro	09/22/2017
Damage, Telepho	TS18050564K	NOC2017-0023	Did not properly mark out	\$3,000	Verizon		07/06/2017	State Rte. 34, Marlboro	03/27/2017
Damage, Telepho	TS18050562K	NOC2017-0022	Did not properly mark out	\$3,000	Verizon		07/06/2017	State Rte. 34, Marlboro	09/22/2017
Damage, Telephone	TS18050561K	NOC2017-0021	Did not properly mark out	\$3,000	Verizon		07/06/2017	State Rte. 34, Marlboro	09/22/2017
Damage, Telepho	TS18050560K	NOC2017-0020	Did not properly mark out	\$3,000	Verizon		06/29/2017	State Rte. 34, Marlboro	09/22/2017
Damage, Gas	GS18050558K	NOC2017-0013	Did not have valid mark out	\$1,000		Mira Construction	05/08/2017	State Rte. 35, South Amboy	07/10/2017

