



STATE OF NEW JERSEY
Board of Public Utilities
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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 to -91)
)
) ORDER ACCEPTING
) SETTLEMENTS
)
) DOCKET NOS. WS18070715K,
) et al. (see attached appendix)

Parties of Record:

- Michael Petillo, Petillo, Inc.**
- Joseph Mingle, Aqua Water NJ Inc.**
- Michael Bangle, New Jersey American Water Company**
- Rory Senseman, South State, Inc., Contractors**
- Scott Lutzky, SF Lutzky Contracting, Inc.**
- Stacy A. Mitchell, Esq., South Jersey Gas Company**
- Douglas Carey, Carey Excavating, Inc.**
- Nu Dimension, Nu Dimension Company**
- Jerry Geese, Jerry & Son Excavating, Inc.**
- Donald Pollock, New Jersey Home Rentals**
- Wes Covely, Pioneer Pipe Contractors, Inc.**
- Joseph Riff, Oakwood Brothers & Developers**
- C.C. Whitehead, Rockland Electric Company**
- Nick Pinto, New Jersey American Water Company**
- Edmund Johnson, Trenton Water Works**
- Jim Mastrokalos, Suez Water Toms River**
- Robert Kinsey, Township of Dover Water Commission**
- Craig Lynch, New Jersey Natural Gas Company**
- Donald A. Richards, Jersey Central Power & Light Company**
- John David Stem, Stems Bros., Inc.**
- Sylvia DelVecchio, Verizon**
- Michele Hovan, Hopewell Public Works**

BY THE BOARD:¹

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 to -91. The primary purpose of the Act is to establish the One-Call Damage

¹ Commissioner Robert M. Gordon did not participate.

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

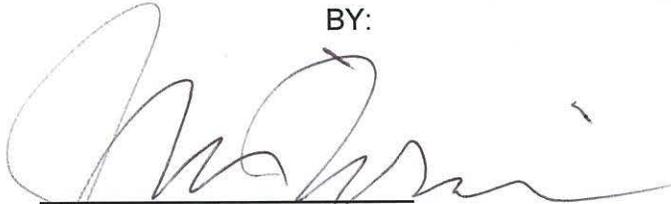
Settlement are for settlement purposes only, and apply strictly to the specific incidents described in the Appendix. This acceptance is without prejudice as to the position of the State of New Jersey or any agency or subdivision thereof if other violations are present, now or in the future.

This Order shall be effective on September 8, 2018.

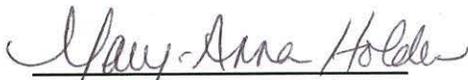
NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

DATED: 8/29/18

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



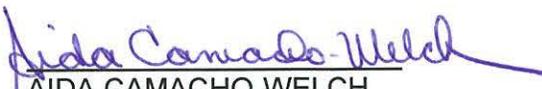
MARY-ANNA HOLDEN
COMMISSIONER



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.

**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. WS18070715K (see attached appendix)**

SERVICE LIST

Michael Petillo
Petillo, Inc.
167 Flanders-Netcong Road
Flanders, NJ 07836

Joseph Mingle
Aqua Water New Jersey, Inc.
762 Lancaster Avenue
Bryn Mawr, PA 19010

Michael Bangle
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Cherry Hill NJ 08034

Rory Senseman
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P.O. Box 68 – Reeves Road
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SF Lutzky Contracting Inc.
209 Homestead Road
Hillsborough, NJ 08844

Stacy A. Mitchell, Esq.
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One South Jersey Plaza
Folsom, NJ 08037

Douglas Carey
Carey Excavating, Inc.
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Franklinville, NJ 08322-2004

Nu Dimension
Nu Dimension Company
201-209 Hackensack Street, LLC
107 Pennsylvania Avenue
Paterson, NJ 07503

Jerry Geese
Jerry & Son Excavating, Inc.
5981 Scranton Avenue
Mays Landing, NJ 08330

Donald Pollock
New Jersey Home Rentals
740 Marne Hwy – Suite 104
Moorestown, NJ 08057

Wes Covely
Pioneer Pipe Contractors, Inc.
P.O. Box 358
Pittman, NJ 08071

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109 N. Black Horse Pike Suite 4C
Blackwood, NJ 08012

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P.O. Box 5600
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Trenton, NJ 08628

Jim Mastrokalos
Suez Water Toms River
461 From Road – Suite 400
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Township of Dover Water Commission
37 N. Sussex Street
Dover, NJ 07801

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New Jersey Natural Gas Company
1415 Wyckoff Road – P.O. Box 1464
Wall, NJ 07719

Donald A. Richards
Jersey Central Power & Light
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300 Madison Avenue
Morristown NJ 07962

John David Stem
Stems Bros., Inc.
760 Frenchtown Road – P.O. Box 619
Milford, NJ 08848-0619

Sylvia Del Vecchio
Verizon
8 Gates Avenue – 2nd Floor
Montclair, NJ 07042-3399

Michele Hovan
Hopewell Public Works
88 East Broad Street
Hopewell, NJ 08625

IN THE MATTER OF:
ALLEGED VIOLATIONS OF THE UNDERGROUND FACILITY PROTECTION ACT,
N.J.S.A. 48:2-73 to -91 ORDER ACCEPTING SETTLEMENTS
Bureau of One Call - Settlements - APPENDIX- August 29, 2018

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Electric	ES18070715K	EOC2017-0007	Did not have valid mark out	\$2,000		Petillo, Inc.	1/30/2017	Cranbury Twsp, NJ	06/25/2018
Damage, Water	WS18070716K	WOC2017-0023	Did not properly mark out	\$3,000	Aqua Water NJ, Inc.		04/09/2017	Blackwood, NJ	06/07/2018
Damage, NOC	WS18070717K	NOC2018-0005	Failure to report damage	\$3,000	NJ American Water Company		02/27/2018	Mountainside, NJ	05/23/2018
Damage, Gas	GS18070718K	GOC2016-1563	Failure to use reasonable care	\$3,000		South State Inc., Contractors	10/28/2016	Bridgeton, NJ	06/28/2018
Damage, Gas	GS18070719K	GOC2016-0968	Did not have valid mark out	\$3,000		S.F. Lutzky Contracting, Inc.	07/12/2016	North Plainfield, NJ	05/21/2018
Damage, Gas	GS18070720K	GOC2017-0504	Did not properly mark out	\$3,000	SJ Gas Company		05/16/2017	Vineland, NJ	05/18/2018
Damage, Gas	GS18070721K	GOC2017-0996	Did not properly mark out	\$3,000	SJ Gas Company		09/03/2017	Magnolia, NJ	05/18/2018
Damage, Gas	GS18070722K	GOC2017-0344	Did not properly mark out	\$3,000	SJ Gas Company		04/07/2017	Gloucester Twp., NJ	06/18/2018
Damage, Gas	GS18070723K	GOC2016-1207	Did not have valid mark out	\$3,000		Carey Excavating, Inc.	08/25/2016	Atlantic City, NJ	06/28/2016
Damage, Gas	GS18070724K	GOC2015-0559	Failure to use reasonable care	\$3,000		Nu Dimension Company	05/06/2015	East Rutherford, NJ	6/22/2018
Damage, Gas	HS18070725K	GOC2017-0461	Failure to use reasonable care	\$3,000		Jerry & Son Excavating, Inc.	05/08/2017	Cape May, NJ	05/29/2018
Damage, Gas	GS18070726K	GOC2016-1388	Did not have valid mark out	\$3,000		NJ Home Rentals	09/21/2016	Waterford Twsp., NJ	06/14/2018
Damage, Gas	GS18070727K	GOC2015-0398	Did not properly mark out	\$3,000	SJ Gas Company		04/22/2015	Millville, NJ	06/05/2018
Damage, Gas	GS18070742K	GOC2016-1869	Did not properly mark out	\$3,000		Pioneer Pipe Contractors, Inc.	12/20/2016	Ocean City, NJ	06/05/2018
Damage, Gas	GS18070743K	GOC2016-1866	Failure to use reasonable care	\$3,000		Pioneer Pipe Contractors, Inc.	12/16/2018	Ocean City, NJ	06/05/2018
Damage, None	AS18070744K	NOC2017-0073	Did not have Valid Mark out	\$1,000		Oakwood Builders & Developers	06/10/2017	Sewell, NJ	07/13/2018
Damage, None	AS18070745K	NOC2017-0074	Did not have valid mark out	\$1,000		Oakwood Builders & Developers	06/22/2017	Sewell, NJ	07/13/2018
Damage, None	AS18070746K	NOC2017-0075	Did not have valid mark out	\$1,000		Oakwood Builders & Developers	07/20/2017	Washington Twsp, NJ	07/03/2018
Damage, None	ES18070747K	EOC2018-0115	Did not respond to request	\$3,000	Rockland Electric Company		06/02/2018	Norwood, NJ	06/25/2018
Damage, None	WS18070748K	EOC2018-0116	Did not respond to request	\$3,000	Rockland Electric Company		06/07/2018	Upper Saddle River, NJ	06/25/2018
Damage, None	WS18070739K	EOC2018-0117	Did not respond to request	\$3,000	Rockland Electric Company		06/19/2018	Saddle River, NJ	06/25/2018
Damage, None	ES18070749K	NOC2018-0015	Did not respond to request	\$3,000	Rockland Electric Company		06/12/2018	Norwood, NJ	06/25/2018
Damage, None	AS18070750K	NOC2018-0016	Did not respond to request	\$3,000	NJ American Water Company		6/05/18	Linden, NJ	06/26/2018
Damage, None	ES18070751K	NOC2018-0017	Did not respond to request	\$3,000	NJ American Water Company		06/12/2018	Fanwood, NJ	06/19/2018
Damage, None	GS18070740K	NOC2018-0018	Did not respond to request	\$3,000	NJ American Water Company		05/25/2018	Bernardsville, NJ	06/15/2018
Damage, None	WS18070765K	NOC2018-0020	Did not respond to request	\$3,000	Trenton Water Works		02/16/2016	Ewing, NJ	03/14/2018
Damage, None	WS18070766K	NOC2018-0021	Did not respond to request	\$3,000	Trenton Water Works		02/07/2018	Ewing, NJ	02/07/2018

