



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. ES18101135K,)
et al. (see attached appendix)

Parties of Record:

- Paul M. James**, Atlantic City Electric Company
- Roger Shaffer**, New Jersey American Water Company
- Donald A. Richards**, Jersey Central Power & Light Company
- Rory Senseman**, South State Inc., General Contractors
- Michael Bange**, New Jersey American Water Company
- Sylvia DelVeccio, Esq.**, Verizon
- Richard D. McLaughlin**, J. Fletcher Creamer & Sons, Inc.
- Javier DeJesus**, Blue Acres Landscaping
- Divina Reyes**
- Shawn Reid**, United Fence, LLC
- Stacy A. Mitchell**, South Jersey Gas Company
- Jamie Donatiello**, Public Service Electric & Gas Company
- Dave Kaufman**, Bagel Nosh
- Carl Pursell**, Pursell General Contractor
- Claudine Campbell-Whitehead**, Rockland Electric
- Gary Mount**, Terhune Orchards
- Mike Scacifero**, Elizabethtown Gas Company
- Scott Markay**, Ram Jack of the Tri State, Inc.
- Nathan Kiracofe**, Township of Livingston
- Joseph Mingle**, Aqua New Jersey, Inc.
- Maria Diaz**, Atlas Concrete

BY THE BOARD:

The Board of Public Utilities ("Board") has jurisdiction to oversee and enforce the provisions of the Underground Facility Protection Act ("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 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.

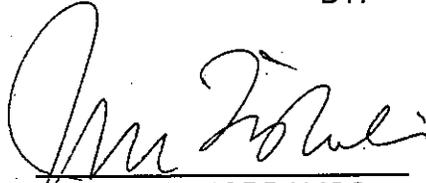
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations. 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 January 27, 2019.

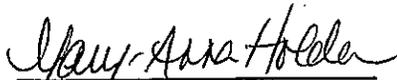
NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

DATED: 1/17/19

BOARD OF PUBLIC UTILITIES
BY:



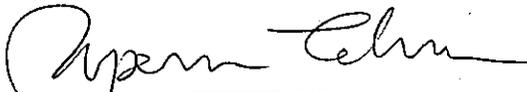
JOSEPH L. FIORDALISO
PRESIDENT



MARYANNA HOLDEN
COMMISSIONER



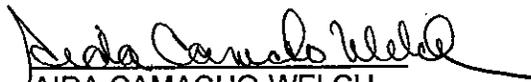
DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
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 to -91**

DOCKET NOS. ES1801135K, et. al. (see attached appendix)

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Terhune Orchards
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Dave Kaufman
Bagel Nosh
380 Clifton Avenue
Lakewood, NJ 08701

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- January 17, 2019

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, None	ES18101135K	NOC2018-0086	Did not properly mark out	\$3,000	Atlantic City Electric Co.		06/05/2018	Washington, NJ	06/27/2018
Damage, None	WS18101134K	NOC2018-0087	Did not properly mark out	\$3,000	New Jersey American Water Co.		06/18/2018	Raritan, NJ	06/27/2018
Damage, None	WS18101133K	NOC2018-0088	Did not properly mark out	\$3,000	New Jersey American Water Co.		06/15/2018	Princeton, NJ	06/27/2018
Damage, None	WS18101131K	NOC2018-0089	Did not properly mark out	\$3,000	New Jersey American Water Co.		06/18/2018	Raritan, NJ	06/27/2018
Damage, None	WS18101129K	NOC2018-0090	Did not properly mark out	\$3,000	New Jersey American Water Co.		06/08/2018	Raritan, NJ	06/27/2018
Damage, None	ES18101132K	NOC2018-0091	Did not properly mark out	\$3,000	Atlantic City Electric Co.		06/20/2018	Washington, NJ	06/29/2018
Damage, None	ES18101127K	NOC2018-0092	Did not properly mark out	\$3,000	Jersey Central Power & Light Co.		08/28/2018	Denville, NJ	09/19/2018
Damage, None	ES18101128K	NOC2015-0092	Did not use reasonable care	\$3,000		South State, Inc., General Contractors	09/03/2015	Burlington, NJ	09/27/2018
Damage, None	ES18101130K	NOC2018-0093	Did not properly mark out	\$3,000	Jersey Central Power & Light Co.		08/27/2018	Pemberton, NJ	09/19/2018
Damage, None	ES18101125K	NOC2018-0095	Did not properly mark out	\$3,000	Jersey Central Power & Light Co.		09/19/2018	E. Windsor, NJ	09/19/2018
Damage, None	ES18101124K	NOC2018-0096	Did not properly mark out	\$3,000	Jersey Central Power & Light Co.		08/27/2018	Pemberton, NJ	09/19/2018
Damage, None	ES18101126K	NOC2018-0097	Did not properly mark out	\$3,000	Jersey Central Power & Light Co.		08/20/2018	Morris, NJ	09/19/2018
Damage, None	WS18101199K	NOC2018-0102	Did not properly mark out	\$3,000	New Jersey American Water Co.		08/17/2018	Elizabeth, NJ	09/12/2018
Damage, None	WS18101200K	NOC2018-0103	Did not properly mark out	\$3,000	New Jersey American Water Co.		08/14/2018	Elizabeth, NJ	09/12/2018
Damage, None	WS18101201K	NOC2018-0104	Did not properly mark out	\$3,000	New Jersey American Water Co.		08/14/2018	Edison, NJ	09/12/2018
Damage, None	WS18101202K	NOC2018-0105	Did not properly mark out	\$3,000	New Jersey American Water Co.		08/21/2018	Elizabeth, NJ	09/07/2018
Damage, Telco	TS18101203K	TOC2016-0077	Did not properly mark out	\$2,000	Verizon		10/07/2016	Millburn, NJ	08/3/2018
Damage, Telco	TS15101204K	TOC2016-0074	Did not properly mark out	\$2,000	Verizon		08/25/2016	Williamstown, NJ	08/03/2018
Damage, Telco	TS18101205K	TOC2018-0056	Did not properly mark out	\$2,000	Verizon		07/14/2016	Fair Lawn, NJ	08/03/2018
Damage, Telco	TS18101206K	TOC2016-0054	Did not properly mark out	\$2,000	Verizon		07/01/2016	Warren, NJ	08/03/2018
Damage, Electric	GS18101207K	GOC2015-1396	Did not use reasonable care	\$3,000		South State, Inc., General Contractors	09/03/2015	Burlington, NJ	09/27/2018
Damage, Gas	GS18101208K	GOC2016-1622	Did not use reasonable care	\$3,000		J. Fletcher Creamer & Sons, Inc.	11/01/2016	South Amboy, NJ	09/26/2018
Damage, Gas	GS18101209K	GOC2015-1519	Did not have valid mark out	\$3,000		Blue Acres Landscaping	10/05/2015	Marlboro, NJ	10/06/2018
Damage, Gas	GS18101210K	GOC2016-0836	Did not have valid mark out	\$3,000		Divina Reyes	07/13/2016	Elizabeth, NJ	09/02/2018
Damage, Gas	GS18101211K	GOC2018-1657	Did not have valid mark out	\$3,000		United Fence, LLC	11/10/2016	Monroe, NJ	10/02/2018
Damage, None	GS18091010K	GOC2015-0801	Did not properly mark out	\$3,000	South Jersey Gas Co.		06/18/2015	Pleasantville, NJ	06/22/2018
Damage, None	GS18091011K	GOC2016-1806	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.		12/01/2016	East Orange, NJ	08/31/2018

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- January 17, 2019

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, None	GS18091012K	GOC2015-1372	Did not have valid mark out	\$3,000		Bagel Nosh	09/18/2015	Lakewood, NJ	09/05/2018
Damage, None	GS18091013K	GOC2016-1546	Did not have valid mark out	\$3,000		Pursell General Contractor	10/17/2016	Margate City, NJ	06/29/2018
Damage, None	ES18091014K	NOC2018-0067	Did not properly mark out	\$3,000	Jersey Central Power & Light Co.		06/12/2016	New Providence, NJ	07/19/2018
Damage None	ES18091015K	NOC2018-0066	Did not respond to mark out request	\$3,000	Rockland Electric Co.		06/07/2018	Wall, NJ	07/03/2018
Damage, None	ES18091016K	NOC2018-0065	Did not respond to mark out request	\$3,000	Rockland Electric Co.		06/19/2018	Allendale, NJ	06/25/2018
Damage, Cable	CS18091017K	COC2015-0188	Did not have valid mark out	\$3,000		Terhune Orchards	07/24/2015	Princeton, NJ	08/28/2018
Damage, Gas	GS18091019K	GOC2017-0256	Did not properly mark out	\$3,000	South Jersey Gas Co.		03/20/2017	Wildwood, NJ	08/23/2018
Damage, Gas	GS18091020k	GOC2017-0326	Did not properly mark out	\$3,000	South Jersey Gas Co.		04/03/2017	West Wildwood, NJ	08/23/2018
Damage Gas	GS18091021K	GOC2017-0078	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.		01/27/2017	Fort Lee, NJ	08/09/2018
Damage, Gas	GS18091022K	GOC2016-1808	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.			Livingston, NJ	08/22/2018
Damage, Gas	GS18091023K	GOC2016-0621	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.		05/26/2016	Irvington, NJ	10/10/2018
Damage, Gas	GS18101181K	GOC2015-0663	Did not properly mark out	\$3,000	Elizabethtown Gas Co.		06/03/2015	Union, NJ	09/11/2018
Damage, Gas	GS18101180K	GOC2016-0779	Did not properly mark out	\$3,000	Elizabethtown Gas Co.		06/22/2016	Pennington, NJ	09/11/2018
Damage, Gas	GS18101176K	GOC2016-0522	Did not properly mark out	\$3,000	Elizabethtown Gas Co.		05/17/2016	Mountainside, NJ	09/11/2018
Damage, Gas	GS18101177K	GOC2016-1277	Did not properly mark out	\$3,000	Elizabethtown Gas Co.		06/14/2016	Hillside, NJ	09/11/2018
Damage, Gas	GS18101178K	GOC2016-0487	Did not properly mark out	\$3,000	Elizabethtown Gas Co.		05/16/2016	Union, NJ	09/11/2018
Damage, None	ES18101173K	NOC2018-0098	Did not properly mark out	\$3,000	Jersey Central Power & Light Co.		08/20/2018	Allamuchy, NJ	09/19/2018
Damage, None	ES18101174K	NOC2018-0099	Did not properly mark out	\$3,000	Jersey Central Power & Light Co.		08/20/2018	Allamuchy, NJ	09/19/2018
Damage, None	GS18101179K	NOC2015-1305	Did not have a valid mark out	\$3,000		Ram Jack of the Tri States, Inc.	09/02/2015	Beach Haven, NJ	09/14/2018
Damage, None	WS18101175K	NOC2017-0035	Did not properly mark out	\$3,000	New Jersey American Water Co.		05/02/2017	Gloucester, NJ	09/07/2018
Damage, Gas	GS18101170K	GOC2016-0613	Did not have valid mark out	\$3,000		Township of Livingston	08/12/2015	Livingston, NJ	09/06/2018
Damage, None	WS18101168K	NOC2018-0101	Did not properly mark out	\$3,000	Aqua New Jersey, Inc.		08/13/2018	Berkeley, NJ	09/06/2018
Damage, None	ES18101172K	NOC2018-0100	Did not properly mark out	\$3,000	Jersey Central Power & Light Co.		06/09/2018	Delaware, NJ	09/07/2018
Damage, Gas	GS18101169K	GOC2016-1818	Did not have a valid mark out	\$3,000		Atlas Concrete	12/01/2016	Brick, NJ	07/14/2018
Total	51	\$149,000.00							