



Agenda Date: 04/18/19
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) ORDER ACCEPTING
ACT, N.J.S.A. 48:2-73 to -91) SETTLEMENTS
)
) DOCKET NOS. WS19020163K,
) et al. (see attached appendix)

Parties of Record:

Michael Bangle, New Jersey American Water Company
Paula M. James, Atlantic City Electric Company
Jamie Donatiello, Public Service Electric & Gas Company
Sylvia DeVecchio, Verizon
Jason McBride, Anthony & Sylvan Pool Company
Frederick Kurfehs, Orchard Holding LLC
Stuart Hartnett, Gray Supply Company
Manuel Araujo, Midwest Construction Inc.
Michelle Hull, Miller Pipeline
William Merkler, Down to Earth Landscaping
Diane Manoini, National Microwave Contractors
Robyn Ciccone, Ciccone Construction
Stacy A. Mitchell, Esq., South Jersey Gas Company
Robert Kinsey, Township of Dover Water Commission
Jacqueline Vale, Black Rock Enterprise LLC
Michael P. Crescent, Arawak Paving Co., Inc.

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 no less than \$1,000.00 and no 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.

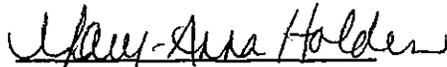
This Order shall be effective on April 28, 2019.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

DATED: 4/18/19

BOARD OF PUBLIC UTILITIES
BY:

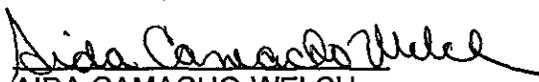

JOSEPH L. FIORDALISO
PRESIDENT


MARY-ANNA 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 ET SEQ. ORDER ACCEPTING SETTLEMENTS
DOCKET NOS. WS19020163K, et al. (see attached appendix)**

SERVICE LIST

Michael Bangle
New Jersey American Water Co.
P.O. Box 5600
Cherry Hill, NJ 08034

Paula M. James
Atlantic City Electric Company
5100 Hudy Highway
Mays Landing, NJ 08330

Sylvia DelVecchio, Esq.
Verizon
8 Gates Avenue
Montclair, NJ 07042

Frederick Kurfehs
Orchard Holdings LLC
1913 Atlantic Avenue
Manasquan, NJ 08736

Jamie Donatiello
Public Service Electric & Gas Co.
80 Park Plaza
Newark, NJ 07102

Jason McBride
Anthony & Sylvan Pool Co.
350 Highway 9, North
Manalapan, NJ 07726

Michael P. Crescent
Arawak Paving Co., Inc.
7503 Weymouth Road
Hammonton, NJ 08037

Stuart Hartnett
Gray Supply Company
120 Parker Avenue
Forked River, NJ 08731.

Manuel Araujo
MidWest Construction, Inc.
23 Dead River Road
Warren, NJ 07059

Michelle Hull
Miller Pipeline
P.O. Box 34141
Indianapolis, IN 46234

William Merkler
Down to Earth Landscaping
705 Wright Debow Road
Jackson, NJ 08527

Diane Manoini
National Microwave Contractors
115 Hibernia Avenue
Rockaway, NJ 07866

Robyn Ciccone
Ciccone Construction
2002 Route 9
Toms River, NJ 08755

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

Robert Kinsey
Township of Dover Water Comm.
37 N. Sussex Street
Dover, NJ 07801

Rénee Greenberg
Deputy Attorney General
Division of Law
Post Office Box 45029
Newark, NJ 07101-45029

Ilene Lampitt, Legal Specialist
Counsel's Office
Board of Public Utilities
Post Office Box 350
Trenton, NJ 08625-0350

Jacqueline Vale
Black Rock Enterprises LLC
1318 Englishtown Road
Old Bridge, NJ 08857

James Giuliano, Director
Division of Reliability and Security
Board of Public Utilities
Post Office Box 350
Trenton, NJ 08625-0350

Lauren Mattox, Executive Analyst
Division of Reliability and Security
Board of Public Utilities
Post Office Box 350
Trenton, NJ 08625-0350

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- April 18, 2018

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Water	WS19020163K	NOC2018-0154	Did not properly mark out	\$3,000	NJ American Water Co.		09/06/18	Elizabeth, NJ	09/18/18
Damage, None	WS19020164K	NOC2018-0155	Did not properly mark out	\$3,000	NJ American Water Co.		09/05/18	Oceanport, NJ	10/02/18
Damage, Water	WS19020165K	WOC2017-0040	Did not properly mark out	\$2,000	NJ American Water Co.		06/15/17	West Orange, NJ	10/12/18
Damage, Gas	ES19020166K	EOC2016-0168	Did not properly mark out	\$2,000	Atlantic City Electric Co.		07/29/16	Clarksboro, NJ	09/07/18
Damage, Gas	ES19020167K	EOC2016-0172	Did not properly mark out	\$2,000	Atlantic City Electric Co.		08/10/16	Berlin, NJ	09/27/18
Damage, Gas	ES19020168K	EOC2016-0221	Did not properly mark out	\$2,000	Atlantic City Electric Co.		01/08/16	Tuckerton, NJ	09/07/18
Damage, None	ES19020169K	NOC2018-0156	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.		07/02/18	Dennis, NJ	09/14/18
Damage, None	TS19020230K	NOC2018-0100	Did not properly mark out	\$3,000	Verizon		08/17/18	Delaware, NJ	10/22/18
Damage, None	TS19020231K	NOC2018-0162	Did not properly mark out	\$3,000	Verizon		08/20/18	Allamuchy, NJ	12/24/18
Damage, Gas	GS19020232K	GOC2016-0680	Failure to use reasonable care	\$3,000		Anthony & Sylvan Pool Company	06/02/16	Long Branch, NJ	12/18/18
Damage, None	TS19020233K	NOC2018-0163	Did not properly mark out	\$3,000	Verizon		08/28/18	Howell, NJ	12/24/18
Damage, None	TS19020234K	NOC2018-0164	Did not properly mark out	\$3,000	Verizon		09/07/18	Medford, NJ	12/24/18
Damage, None	TS19020235K	NOC2018-0165	Did not properly mark out	\$3,000	Verizon		10/15/18	Berkeley, NJ	12/24/18
Damage, None	TS19020236K	NOC2018-0166	Did not properly mark out	\$3,000	Verizon		10/17/18	Toms River, NJ	12/24/18
Damage, None	TS19020237K	NOC2018-0167	Did not properly mark out	\$3,000	Verizon		10/17/18	Hainesport, NJ	12/24/18
Damage, None	TS19020238K	NOC2018-0168	Did not properly mark out	\$3,000	Verizon		10/29/18	Lakewood, NJ	12/24/18
Damage, None	TS19020239K	NOC2018-0169	Did not properly mark out	\$3,000	Verizon		11/05/18	Colts Neck, NJ	12/24/18
Damage, None	TS19020240K	NOC2018-0170	Did not properly mark out	\$3,000	Verizon		11/20/18	Haledon, NJ	12/24/18
Damage, None	TS19020241K	NOC2018-0171	Did not properly mark out	\$3,000	Verizon		11/28/18	Middle Town, NJ	12/24/18
Damage, None	TS19020179K	NOC2018-0157	Did not properly mark out	\$3,000	Verizon		08/06/18	Chesterfield, NJ	10/01/18
Damage, None	TS19020180K	NOC2018-0158	Did not properly mark out	\$3,000	Verizon		08/20/18	Allamuchy, NJ	10/01/18
Damage, None	TS19020181K	NOC2018-0159	Did not properly mark out	\$3,000	Verizon		08/20/18	Winslow, NJ	10/01/18
Damage, None	ES19020182K	NOC2018-0160	Did not properly mark out	\$3,000	Verizon		08/13/18	Bass River, NJ	08/31/18
Damage, Gas	GS19020183K	GOC2015-0562	Did not have a valid mark out	\$3,000		Orchard Holdings LLC	05/14/15	Lyndhurst, NJ	11/28/18
Damage, Gas	GS19020184K	GOC2017-0936	Failure to use reasonable care	\$3,000		Gray Supply Company	07/25/17	Ocean Gate, NJ	11/29/18
Damage, Gas	GS19020185K	GOC2015-1696	Did not have a valid mark out	\$3,000		Mid-West Construction Inc.	11/02/15	Parsippany, NJ	11/19/18

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- April 18, 2018

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, None	WS19020186K	NOC2018-0108	Failure to report Damage to BPU	\$3,000		New Jersey American Water Co.	07/12/18	Westfield, NJ	11/30/18
Damage, Gas	GS19020187K	GOC2015-1447	Did not have valid mark out	\$3,000		Miller Pipeline	09/09/15	South River, NJ	11/23/18
Damage, Gas	GS19020188K	GOC2015-1905	Did not have valid mark out	\$3,000		Down to Earth Landscaping	12/16/15	Spring Lake, NJ	12/21/18
Damage Electric	ES19020189K	EOC2017-0178	Failure to use reasonable care	\$3,000		National Microwave Contractors	09/06/17	Edison, NJ	12/10/18
Damage, Gas	GS19020193K	GOC2016-0046	Failure to use reasonable care	\$3,000		Cicccone Construction	01/14/16	Marlboro, NJ	11/28/18
Damage, Gas	GS19020190K	GOC2015-1684	Did not properly mark out	\$3,000	South Jersey Gas Co.		11/05/15	Margate City, NJ	12/07/18
Damage, None	WS19030282K	NOC2018-0173	Didn't keep mark out	\$1,000	Township of Dover Water Comm.		11/17/17	Randolph, NJ	05/08/18
Damage, Gas	GS19030283K	GOC2017-0240	Failure to use reasonable care	\$3,000		Black Rock Enterprises, LLC	03/29/17	Asbury Park, NJ	09/21/18
Damage Gas	GS19030284K	GOC2016-1713	Did not properly mark out	\$3,000	PSE&G		11/15/16	Haddonfield, NJ	12/07/18
Damage, Gas	GS19030285K	GOC2016-1418	Did not properly mark out	\$3,000	PSE&G		10/04/16	Audubon, NJ	12/07/18
Damage, Gas	GS19030286K	GOC2015-1195	Did not properly mark out	\$3,000	PSE&G		08/13/15	Hackensack, NJ	11/19/18
Damage, Gas	GS19030287K	GOC2016-1414	Did not properly mark out	\$3,000	PSE&G		10/04/16	South Amboy, NJ	12/10/18
Damage, Gas	GS19030281K	GOC2016-0579	Did not properly mark out	\$3,000	PSE&G		05/24/16	Sayreville, NJ	12/10/18
Damage, Gas	GS19030288K	GOC2016-0473	Did not properly mark out	\$3,000	PSE&G		05/09/16	Bayonne, NJ	12/07/18
Damage, Gas	GS19030280K	GOC2016-0386	Did not properly mark out	\$3,000	PSE&G		04/27/16	North Plainfield, NJ	12/07/19
Damage, Gas	GS19030279K	GOC2016-0314	Failure to report damage to NJBPU	\$3,000	PSE&G		04/14/16	Newark, NJ	12/07/18
Damage, Gas	GS19030289K	GOC2016-0678	Did not properly mark out	\$3,000	PSE&G		06/16/17	Readington, NJ	12/07/18
Damage, Gas	GS19030290K	GOC2017-0556	Did not properly mark out	\$3,000	PSE&G		05/17/17	Gloucester, NJ	12/07/18
Damage, None	GS19030291K	GOC2017-0975	Failure to use reasonable care	\$3,000		Arawak Paving Co., Inc.	02/21/17	Wildwood, NJ	01/16/19
Damage, Gas	ES19020250K	NOC2018-0172	Did not properly mark out	\$3,000	PSE&G		06/05/18	Branchburg, NJ	11/28/18
Damage, Gas	GS19020251K	GOC2017-0287	Did not properly mark out	\$3,000	PSE&G		03/17/17	East Orange, NJ	11/29/18
Damage, Gas	GS19020252K	GOC2017-0068	Did not properly mark out	\$3,000	PSE&G		01/26/17	Edison, NJ	12/10/18
Damage, Gas	GS19020253K	GOC2016-1600	Did not properly mark out	\$3,000	PSE&G		10/26/16	Barrington, NJ	11/28/18
Damage, Gas	GS19020254K	GOC2016-1345	Did not properly mark out	\$3,000	PSE&G		09/26/16	Wyckoff, NJ	10/19/18
Damage, Gas	GS19020255K	GOC2016-1780	Did not properly mark out	\$3,000	PSE&G		12/10/16	Oaklyn, NJ	12/17/18
Damage, Gas	GS19020256K	GOC2016-1744	Did not properly mark out	\$3,000	PSE&G		11/29/16	Edison, NJ	12/10/18
Total	52	\$150,000.00							