



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. GS19020257K, et al.
) (see attached appendix)

Parties of Record:

Jamie Donatiello, Public Service Electric & Gas Company
A. Oliveira, President, P.A. Contractors
Ernest Teasro, Jr., Troiano & Sons
A Pierez Barret, JD Masonry
Victor Battista, Vic's Landscaping, LLC
Liam Doherty, LTD Construction, Inc.
Harol Cestedes, Harol Landscaping & Design
Vincent Leto, Leto Plumbing & Mechanical, Inc.
Joseph Benanti, Above All Landscaping, Inc.
Michael Bangle, New Jersey American Water Company
Ernest Schapran, Best Paving, Inc.
Joseph Bacellieri, Paving Associates LLC
Shana L. Taylor, Hunterdon County Road Department
John Rudko, CRJ Contracting LLC
Alfredo Barreto, President, JD Masonry Company, Inc.
Donald Richards, Jersey Central Power & Light Company
Charles W. Johnston, Jr., Powell's Plumbing & Heating
Gordy Coretti, TriSeason Landscaping & Construction Inc.
Stacy A. Mitchell, Esq., South Jersey Gas Company

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.

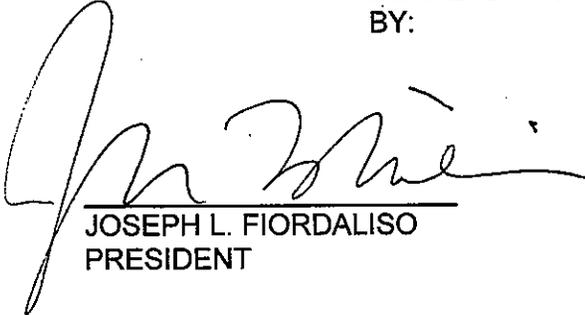
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations. 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 May 18, 2019.

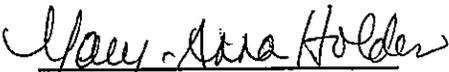
NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

DATED: 5/8/19

BOARD OF PUBLIC UTILITIES
BY:



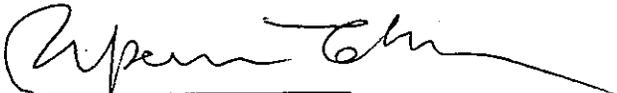
JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



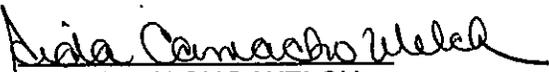
DIANNE SOLOMON
COMMISSIONER



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. GS19020257K, 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 to -91 ORDER ACCEPTING
 SETTLEMENTS Bureau of One Call - Settlements - APPENDIX- May 8, 2019

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS19020257K	GOC2016-1720	Did not properly mark out	\$3,000	PSE&G		11/04/16	Haledon, NJ	12/07/18
Damage, Gas	GS19020258K	GOC2016-1603	Did not properly mark out	\$3,000	PSE&G		10/26/18	Piscataway, NJ	12/10/18
Damage, Gas	GS19020259K	GOC2016-1592	Did not properly mark out	\$3,000	PSE&G		10/21/16	New Brunswick, NJ	12/10/18
Damage, Gas	GS19020260K	GOC2016-1487	Did not properly mark out	\$3,000	PSE&G		10/19/16	Millstone, NJ	12/07/18
Damage, Gas	GS19020261K	GOC2016-1486	Did not properly mark out	\$3,000	PSE&G		10/18/16	Hillsborough, NJ	12/07/18
Damage, Gas	GS19020262K	GOC2016-1419	Did not properly mark out	\$3,000	PSE&G		10/05/16	Bayonne, NJ	12/10/18
Damage, Gas	GS19030337K	GOC2016-1487	Did not properly mark out	\$3,000	PSE&G		10/20/16	Millstone, NJ	12/07/18
Damage, Gas	GS19030325K	GOC2016-0226	Did not have valid mark out	\$3,000		PA Contractors, Inc.	03/15/16	Piscataway, NJ	07/20/18
Damage, Gas	GS19030326K	GOC2016-0940	Did not have valid mark out	\$3,000		Troiano & Sons	07/13/16	Wildwood, NJ	01/25/19
Damage, Cable	CS19030327K	COC2016-0271	Failure to use reasonable	\$3,000		J.D. Masonry Co. Inc.	08/17/16	East Brunswick, NJ	01/26/19
Damage, Electric	ES19030328K	EOC2016-0155	Did not have a valid mark out	\$3,000		Vic's Landscaping LLC	09/20/16	Holmdel, NJ	01/16/19
Damage, Gas	GS19030329K	GOC2017-0349	Did not have a valid mark out	\$3,000		LTD Construction Inc.	04/12/17	Lindenwold, NJ	02/05/19
Damage, Gas	GS19030330K	GOC2015-0771	Did not have a valid mark out	\$3,000		Harold Landscaping & Design	06/24/15	Westfield, NJ	01/30/19
Damage, Gas	GS19030331K	GOC2016-0104	Did not have a valid mark out	\$3,000		Leto Plumbing & Mechanical	02/13/16	Lincroft, NJ	01/17/19
Damage, Gas	GS19030332K	GOC2017-0840	Failure to use reasonable care	\$3,000		Above All Landscaping, Inc.	07/10/17	Toms River, NJ	02/08/19
Damage, None	WS19030333K	NOC2018-0007	Did not properly mark out	\$3,000	NJ American Water Company		05/07/18	Linden, NJ	01/31/19
Damage, Gas	GS19030334K	GOC2017-0930	Did not have valid mark out	\$3,000		Best Paving, Inc.	02/17/17	Interlaken, NJ	01/16/19
Damage, Gas	GS19030382K	GOC2016-1367	Did not properly mark out	\$3,000	PSE&G		09/22/16	Waldwick, NJ	11/29/18
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	GS19030286K	GOC2015-1195	Did not properly mark out	\$3,000	PSE&G		08/13/15	West Caldwell, NJ	11/19/18
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	10/09/18
Damage, Gas	GS19020252K	GOC2017-0068	Did not properly mark out	\$3,000	PSE&G		01/18/17	Edison, NJ	12/10/18
Damage, Gas	GS19020255K	GOC2016-1780	Did not properly mark out	\$3,000	PSE&G		12/10/16	Oaklyn, NJ	12/07/18
Damage, Gas	GS19020256K	GOC2016-1744	Did not properly mark out	\$3,000	PSE&G		11/29/16	Edison, NJ	12/10/18

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- May 8, 2019

Damage Type	BPU Dkt. No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS19030284K	GOC2016-1713	Did not properly mark out	\$3,000	PSE&G		11/15/16	Haddonfield, NJ	12/07/18
Damage, Electric	ES19030383K	NOC2018-0174	Did not properly mark out	\$3,000	PSE&G		05/29/18	Branchburg, NJ	11/28/18
Damage, Water	WS18030299K	NOC2017-0041	Did not properly mark out	\$3,000	NJ American Water Co.		12/14/17	Piscataway, NJ	
Damage, Water	WS19030402K	WOC2016-0052	Did not properly mark out	\$3,000	NJ American Water Co.		08/05/16	Bridgewater, NJ	03/14/19
Damage, Water	WS19030403K	WOC2016-0054	Did not properly mark out	\$3,000	NJ American Water Co.		08/10/16	Princeton, NJ	03/04/19
Damage, Gas	GS19030404K	GOC2017-0922	Failure to use reasonable care	\$3,000		Paving Associates, LLC	07/24/17	Elizabeth, NJ	01/10/19
Damage, Gas	GS19030405K	GOC2018-1099	Excavated outside of work area	\$3,000		Hunterdon County Road Dept.	08/07/18	Flemington, NJ	02/25/19
Damage, Gas	GS19030406K	GOC2016-0833	Failure to use reasonable care	\$3,000		CRJ Contracting	07/12/16	Vauxhall, NJ	03/01/19
Damage, Gas	GS19030407K	GOC2016-0104	Failure to use reasonable care	\$3,000		Leto Plumbing & Mechanical, Inc.	02/13/16	Lincroft, NJ	01/17/19
Damage, Electric	ES19030408K	EOC2016-0155	Did not have valid mark out	\$3,000		Vic's Landscaping LLC	09/20/15	Holmdel, NJ	01/16/19
Damage, Cable	CS19030401K	COC2016-0271	Failure to use reasonable care	\$3,000		JD Masonry Company, Inc.	08/17/16	East Brunswick, NJ	01/26/19
Damage, Electric	ES19030409K	EOC2017-0160	Did not properly mark out	\$3,000			04/26/17	Sayreville, NJ	02/18/19
Damage, Cable	ES19030410K	EOC2017-0131	Did not have a valid mark out	\$3,000		Powell's Plumbing & Heating	05/16/17	Medford, NJ	01/25/19
Damage, Gas	GS19030411K	GOC2016-1601	Did not have valid mark out	\$3,000		Tri Season Landscaping & Construction, Inc.	10/26/16	Bernards Twp., NJ	01/25/19
Damage, Gas	GS19030412K	GOC2017-1004	Did not properly mark out	\$3,000	South Jersey Gas Company		09/09/17	Swedesboro, NJ	01/25/19
Damage, None	GS19030413K	GOC2017-0970	Did not properly mark out	\$3,000	South Jersey Gas Company		07/20/17	Pine Hill, NJ 08021	01/25/19
Damage, Gas									
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Total	41	\$ 123,000.00							