



Agenda Date: 06/21/19
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
ACT, N.J.S.A. 48:2-73 to -91

) ORDER ACCEPTING SETTLEMENTS
)
)
) DOCKET NOS. GS19040500K, et al.
) (see attached appendix)

Parties of Record:

- Robert M. Cunningham**, Green Hill Engineering & Design, LLC
- Jim Brown**, Telecable, Inc.
- Arthur J. Orgen**, Arthur Orgen Construction, Inc.
- Sylvia Del Vecchio**, Verizon
- Thomas Roman**, Quality 1st Contracting
- Jim Roberts**, Century Link Cable Company
- Jamie Donatiello**, Public Service Electric and Gas Company
- Stacy A. Mitchell, Esq.**, South Jersey Gas Company
- Jeremiah Hulsart**, NJ American Water Company
- Michael Bange**, NJ American Water Company
- Donald Richards**, Jersey Central Power and Light Company
- Bill Mead**, Earle Asphalt Company
- Ryan Litton**, Murphy Fence Company
- Joseph DiVincenzo, Jr.**, Essex County Road Department
- Craig Lynch**, NJ Natural Gas Company
- Charles Scott**, Osmose Utilities Services, Inc.
- Edward Mooney**, Lucas Brothers, 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.

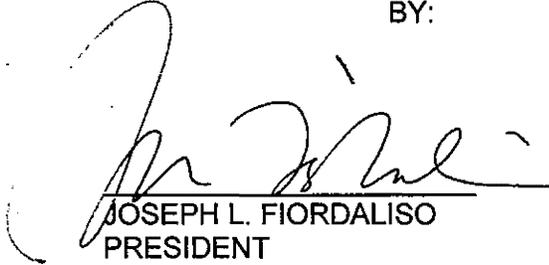
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations. 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 July 1, 2019.

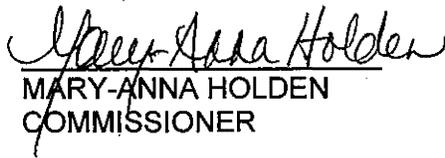
NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

DATED: 6/21/19

BOARD OF PUBLIC UTILITIES
BY:



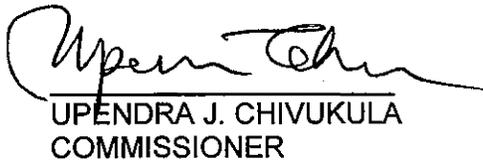
JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



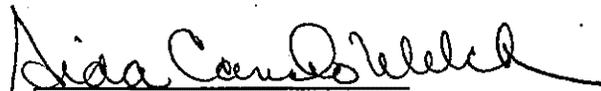
DIANNE SOLOMON
COMMISSIONER



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. GS19040500, et al. (see attached appendix)

SERVICE LIST

Robert M. Cunningham
Green Hill Engineering & Design LLC
213 Newton, NJ 07860

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1511 New Market Avenue
South Plainfield, NJ 07080

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178 East Garden Road
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Sylvia Del Vecchio, Manager
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Thomas Roman
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Cliffwood, NJ 07721

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Peachtree City, GA 30269

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Trenton, 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- June 21, 2018

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS19040500K	GOC2016-0774	Did not have a valid mark out	\$3,000		Green Hill Engineering & Design LLC	06/28/16	Livingston, NJ	07/26/18
Damage, Telco	TS19040501K	TOC2016-0072	Did not have a valid mark out	\$2,000		Telecable Inc.	09/30/16	South Brunswick, NJ	09/14/18
Damage, Gas	GS19040502K	GOC2016-1803	Did not have a valid mark out	\$3,000		Arthur Ogren Construction, Inc.	12/13/16	Lower Twp., NJ	09/5/18
Damage, None	TS19040503K	NOC2018-0177	Did not properly mark out	\$3,000	Verizon		08/09/18	Evesham, NJ	02/5/19
Damage, None	TS19040504K	NOC2018-0178	Did not properly mark out	\$3,000	Verizon		09/04/18	Vineland, NJ	02/05/19
Damage, None	TS19040505K	NOC2018-0179	Did not properly mark out	\$3,000	Verizon		10/15/18	Mt. Laurel, NJ	02/12/19
Damage, None	TS19040506K	NOC2018-0180	Did not properly mark out	\$3,000	Verizon		10/22/18	Ridgefield, NJ	02/12/19
Damage, None	TS19040507K	NOC2018-0181	Did not properly mark out	\$3,000	Verizon		11/09/18	Belmar, NJ	02/12/19
Damage, None	TS19040508K	NOC2018-0182	Did not properly mark out	\$3,000	Verizon		02/12/18	Winslow, NJ	02/12/18
Damage, None	TS19040509K	NOC2018-0183	Did not properly mark out	\$3,000	Verizon		12/10/18	Monroe, NJ	12/12/19
Damage, None	TS19040510K	NOC2018-0184	Did not properly mark out	\$3,000	Verizon		12/11/18	West Amwell, NJ	02/12/18
Damage, None	TS19040511K	NOC2018-0185	Did not properly mark out	\$3,000	Verizon		12/17/18	Jersey City, NJ	02/12/18
Damage, Gas	GS19040512K	GOC2016-0441	Did not have a valid mark out	\$3,000		Quality 1st Contracting	04/21/16	Howell, NJ	01/17/19
Damage, None	TS19050586K	NOC2018-0191	Did not properly mark out	\$3,000	Century Link Cable Company		06/08/18	Raritan, NJ	02/28/19
Damage, None	CS19050587K	NOC2018-0188	Did not properly mark out	\$3,000	Century Link Cable Company		05/31/18	Raritan, NJ	02/28/19
Damage, None	ES19050588K	NOC2018-0186	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.		06/16/18	Scotch Plains, NJ	11/30/19
Damage, None	CS19050589K	NOC2018-0187	Did not properly mark out	\$3,000	Century Link Cable Company		05/31/18	Raritan, NJ	02/28/19
Damage, Gas	GS19050590K	GOC2016-0168	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.		03/03/16	Oaklyn, NJ 08107	02/27/19
Damage, None	TS19050591K	NOC2019-0002	Did not properly mark out	\$3,000	Verizon		01/24/19	Red Bank, NJ	12/12/19
Damage, None	CS19050592K	NOC2018-0189	Did not properly mark out	\$3,000	Century Link Cable Company		06/08/18	Raritan, NJ	02/28/19
Damage, None	TS19050593K	NOC2018-0192	Did not properly mark out	\$3,000	Century Link Cable Company		06/08/18	Raritan, NJ	02/28/19
Damage, Gas	GS19050594K	GOC2016-1579	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.		10/18/16	Hackensack, NJ	01/02/19
Damage, Gas	GS19050595K	GOC2016-0738	Did not properly mark out	\$3,000	South Jersey Gas Company		06/24/16	Stratford, NJ	02/26/19
Damage, Gas	GS19050596K	GOC2016-1489	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.		10/19/16	Hillsborough, NJ	10/23/18
Damage, Gas	GS19050597K	GOC2016-0759	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.		06/21/16	Manville, NJ	02/15/19

