



Agenda Date: 10/25/19
Agenda Item: VIA

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

RELIABILITY AND 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. GS19080928K
) et al. (see attached appendix)

Parties of Record:

Jamie Donatiello, Public Service Electric & Gas Company
James K. Valenti, PE, Esq., J. Fletcher Creamer & Son, Inc.
Sylvia Del Vecchio, Esq., Verizon
Jersey Construction, Inc.
Bittner Concrete
Kessler Management and Maintenance
Future Signs
Morgan Noonan, Pierson Construction Company
James K. Valenti, PE, Esq., Creamer Sanzani Joint Venture
Hercules Septic & Sewer Service
Maria Diaz, New Jersey Natural Gas Company
Deborah Franco, South Jersey Gas Company
Michael Dougherty, Public Service Electric & Gas Company
Michael Bange, NJ American Water Company
Mary Patricia Keefe, Elizabethtown Gas Company
Anthony Anzelone, Anzelone Electrical
Paula James, Atlantic City Electric

BY THE BOARD:¹

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

¹ Commissioner Robert M. Gordon recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

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 \$200,000.00 per violation per day and not to exceed \$2,000,000.00 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

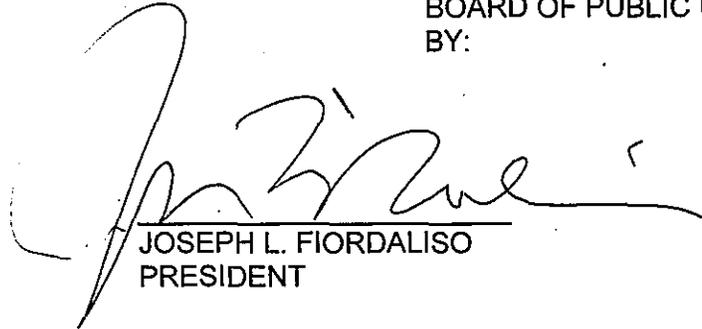
described in the Appendix. This acceptance is without prejudice as to the position of the State of New Jersey or any agency or subdivision thereof if other violations are present, now or in the future.

This Order shall be effective on November 4, 2019.

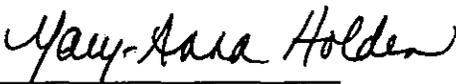
NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

DATED: 10/25/19

BOARD OF PUBLIC UTILITIES
BY:



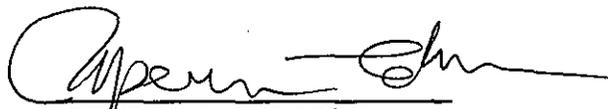
JOSEPH L. FIORDALISO
PRESIDENT



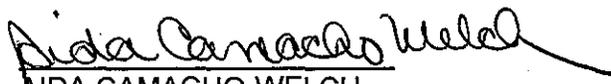
MARY-ANNA HOLDEN
COMMISSIONER



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 NOS. GS19080928K 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- October 25, 2019

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS19080928K	GOC2016-0636	Did not properly mark out	\$3,000	PSE&G Company		06/02/16	Ramsey, NJ	03/21/19
Damage, Gas	GS19080929K	GOC2016-1574	Did not properly mark out	\$3,000	PSE&G Company		10/18/16	Englewood Cliffs, NJ	03/21/19
Damage, Gas	GS19080930K	GOC2016-1633	Failure to use reasonable care	\$3,000		J. Fletcher Creamer & Son, Inc.	03/08/19	Ridgewood, NJ	03/08/19
Damage, Telco	TS19080931K	NOC2019-0001	Failure to report damage	\$3,000	Verizon		05/01/19	North Bergen, NJ	07/30/19
Damage, Telco	TS19080932K	NOC2019-0006	Did not properly mark out	\$3,000	Verizon		03/04/19	North Bergen, NJ	07/30/19
Damage, Gas	GS19080933K	GOC2015-1259	Did not properly mark out	\$3,000	PSE&G Company		08/31/15	Camden, NJ	05/29/19
Damage, Gas	GS19080934K	GOC2016-0966	Did not properly mark out	\$3,000	PSE&G Company		08/02/16	South Brunswick, NJ	05/16/19
Damage, Gas	ES19080935K	EOC2016-0083	Did not properly mark out	\$3,000	PSE&G Company		04/15/16	Lawrence, NJ	05/16/19
Damage, Gas	GS19080936K	GOC2017-0855	Did not properly mark out	\$3,000	PSE&G Company		07/18/17	Princeton, NJ	05/16/19
Damage, Cable	ES19080937K	EOC2016-0131	Failure to use reasonable	\$3,000		Jersey Construction, Inc.,	09/02/16	Camden, NJ	06/17/19
Damage, Electric	GS19080938K	GOC2018-0978	Did not have valid mark out	\$3,000		Blitner Concrete	08/03/18	Haddonfield, NJ	06/12/19
Damage, Gas	GS19080939K	GOC2018-0799	Did not properly mark out	\$3,000	PSE&G Company		07/02/18	Franklin Twsp., NJ	06/11/19
Damage, Gas	GS19080940K	GOC2018-0797	Did not have valid mark out	\$3,000		Kessler Management & Maintenance	07/12/18	Clifton, NJ	06/03/19
Damage, Gas	GS19080959K	GOC2016-0149	Did not properly mark out	\$3,000	PSE&G Company		02/25/16	Belleville, NJ	06/11/19
Damage, Gas	GS19080960K	GOC2016-1358	Did not properly mark out	\$3,000	PSE&G Company		09/27/16	Ridgefield, NJ	06/04/19
Damage, None	GS19080961K	GOC2016-1373	Did not have valid mark out	\$3,000		Future Signs	10/19/16	Pennington, NJ	06/11/19
Damage, Gas	GS19080962K	GOC2016-1788	Did not properly mark out	\$3,000	PSE&G Company		12/05/16	Harrington Park, NJ	06/04/19
Damage, Gas	GS19080963K	GOC2017-1358	Failure to use reasonable care	\$3,000		Pierson Construction Company	09/27/17	Mt. Laurel, NJ	06/11/19
Damage, Gas	GS19080964K	GOC2017-1400	Did not properly mark out	\$3,000	PSE&G Company		10/05/17	Franklin Lakes, NJ	06/11/19
Damage, Gas	GS19080965K	GOC2017-1410	Did not properly mark out	\$3,000	PSE&G Company		10/02/17	Wood Ridge, NJ	06/11/19
Damage, Gas	GS19080966K	GOC2017-1417	Did not properly mark out	\$3,000	PSE&G Company		10/06/17	Morristown, NJ	06/11/19
Damage, Gas	GS19080967K	GOC2017-1462	Did not properly mark out	\$3,000	PSE&G Company		10/06/17	Franklin Twsp., NJ	06/11/19
Damage, Gas	GS19080968K	GOC2016-1080	Failure to use reasonable care	\$3,000		Creamer Sanzari-Joint Venture	08/16/16	Union, NJ	03/18/19
Damage, Gas	GS19080970K	NOC2015-0068	Did not have valid mark out	\$3,000		Hercules Septic and Sewer Service	05/27/15	Lebanon, NJ	07/08/19
Damage, Gas	GS19050684K	GOC2016-1801	Did not properly mark out	\$3,000	South Jersey Gas Company		12/13/16	Winslow, NJ	03/15/19

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- October 25, 2019

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage Water	GS19050685K	GOC2016-0110	Did not properly mark out	\$3,000	PSE&G Company		01/30/16	Paramus, NJ	03/14/19
Damage Water	GS19050686K	GOC2016-1630	Did not properly mark out	\$3,000	PSE&G Company		11/09/16	Jersey City, NJ	03/14/19
Damage Water	GS19050687K	GOC2016-0217	Did not properly mark out	\$3,000	PSE&G Company		03/23/16	High Bridge, NJ	03/05/19
Damage Gas	GS19050688K	GOC2016-0313	Did not properly mark out	\$3,000	PSE&G Company		04/14/16	Chatham, NJ	03/15/19
Damage Gas	GS19050689K	GOC2016-0070	Did not properly mark out	\$3,000	PSE&G Company		01/30/16	Paramus, NJ	03/21/19
Damage Electric	ES19050690K	NOC2019-0014	Did not properly mark out	\$3,000	PSE&G Company		03/05/19	Mt. Laurel, NJ	03/20/19
Damage Water	WS19050691K	NOC2019-0015	Did not properly mark out	\$3,000	NJ American Water Company		03/01/19	North Plainfield, NJ	03/08/18
Damage Water	WS19050692K	NOC2019-0016	Did not properly mark out	\$3,000	NJ American Water Company		03/06/19	Long Hill, NJ	03/21/19
Damage Water	WS19050693K	NOC2019-0017	Did not properly mark out	\$3,000	NJ American Water Company		03/18/19	Franklin, NJ	03/18/19
Damage Water	WS19050694K	NOC2019-0018	Did not properly mark out	\$3,000	NJ American Water Company		03/15/19	Chester Boro, NJ	03/15/19
Damage Water	WS19050695K	NOC2019-0019	Did not properly mark out	\$3,000	NJ American Water Company		03/06/19	Piscataway, NJ	03/18/19
Damage Gas	GS19080974K	GOC2018-0454	Did not properly mark out	\$3,000	NJ Natural Gas Company		05/15/18	Laurence Harbor, NJ	07/08/19
Damage Gas	GS19080973K	GOC2017-0564	Did not properly mark out	\$3,000	PSE&G Company		05/31/17	West Windsor Twp., NJ	07/08/19
Damage Gas	GS19080975K	GOC2018-0116	Did not properly mark out	\$3,000	NJ Natural Gas Company		02/08/18	Ocean Twsp., NJ	07/08/19
Damage Gas	GS19080971K	GOC2018-0456	Did not properly mark out	\$3,000	NJ Natural Gas Company		05/07/18	Harvey Cedars, NJ	07/08/19
Damage Gas	GS19080976K	GOC2019-0054	Did not properly mark out	\$3,000	Elizabethtown Gas Company		01/28/19	Linden, NJ	08/12/19
Damage Gas	GS19080977K	GOC2019-0055	Did not properly mark out	\$3,000	Elizabethtown Gas Company		01/28/19	Perth Amboy, NJ	08/12/19
Damage Gas	GS19080978K	GOC2019-0104	Did not have a valid mark out	\$3,000		Anzelone Electrical	02/08/19	Cape May, NJ	08/12/19
Damage Gas	GS19080979K	GOC2019-0155	Did not have a valid mark out	\$3,000		PSE&G Company	02/21/19	Chester, NJ	08/12/19
Damage Electric	ES19080980K	EOC2017-0137	Did not properly mark out	\$3,000	AC Electric Company		06/19/17	Voorhees, NJ	03/19/19
Total	45	\$135,000.00							