

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.

Pursuant to the Act, violators of its provisions shall be subject 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 be subject 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, costs may be assessed related to any Board investigation, inspection, or monitoring survey which leads to the establishment of a violation, and/or the reasonable costs of preparing and litigating the matter. N.J.S.A. 48:2-86(b)(2).

Following reports of various alleged violations under the Act including, but not limited to, failing to call the System prior to commencing excavation or demolition activities, failing to hand dig and locate facilities, failing to use reasonable care, and/or failing to mark out or properly mark out underground facilities, Board Staff contacted the alleged entities and informed them of the date and location of the alleged violations. A complete list of entities and violations is provided in the Appendix attached hereto and made a part hereof.

II. **DECISION AND FINDINGS**

In an attempt to resolve these matters, the entities described in the Appendix submitted an Offer of Settlement to the Board for its review and consideration. Said Offers of Settlement are also provided in the attached Appendix. Each such Offer of Settlement is summarized in the Appendix.

After consideration of the matters provided in the Appendix, including the alleged violations and the Offers of Settlement, the Board **HEREBY FINDS** the Offers of Settlement to be reasonable and in the public interest, and **HEREBY ACCEPTS** the Offers of Settlement in full satisfaction of the alleged violations of the Act as provided in the Appendix attached hereto and made part hereof.

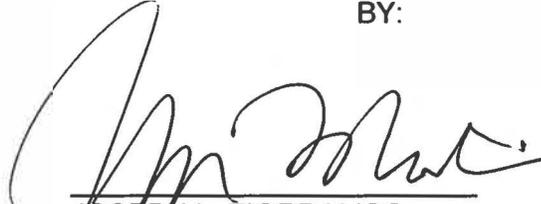
By acceptance of the Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations. It must also be noted that the acceptance of the Offers of Settlement is for settlement purposes only and applies 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.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

This Order shall be effective on November 24, 2021.

DATED: November 17, 2021

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

IN THE MATTER OF ALLEGED VIOLATIONS OF THE UNDERGROUND FACILITY
PROTECTION ACT, N.J.S.A. 48:2-73 to -91

DOCKET NOS. GS21101196K et al. (see attached Appendix)

SERVICE LIST

<p>Ralph Bayard, Commissioner Public Works Long Beach Township MUA 6505 Long Beach Blvd. Brant Beach, NJ 08008 rbayard@longbeachtownship.com</p> <p>Caroline Jacobs South Jersey Gas Company One South Jersey Plaza Folsom, NJ 08037 cjacobs@sjindustries.com</p> <p>Nick Depoto Elizabethtown Gas Company 520 Green Ln. Union, NJ 07083 CDepoto@sjindustries.com</p> <p>Alison Sbriscia New Jersey Natural Gas Company 1415 Wyckoff Rd. Wall, NJ 07719 asbriscia@njng.com</p> <p>Alex O. Gherardi Lexa Concrete 11 Commerce Way Hammonton, NJ 08037 lexaconcrete@aol.com</p> <p>Miquel Seixeiro S&G Paving 224C Forsgate Dr. Jamesburg, NJ 08831 sgpstan@yahoo.com</p> <p>Laura Pedrick JR Land Inc. 19A Minneakoning Rd. Flemington, NJ 08822 info@jrland.com</p>	<p>David McBride Star Home Builders 710 Haven Ave. Ocean City, NJ 08266</p> <p>Vicente Mendoza Mendoza Fencing LLC 519 14th Ave, Floor 2B Belmar, NJ 07719 Mendozafencellc87@gmail.com</p> <p>Matko Ilic, DAG NJ Department of Law and Public Safety Richard J. Hughes Justice Complex Public Utilities Section 25 Market Street, P.O. Box 112 Trenton, NJ 08625 matko.ilic@law.njoag.gov</p> <p>Board of Public Utilities 44 South Clinton Avenue, 1st Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p>Heather Weisband, Esq., Senior Counsel heather.weisband@bpu.nj.gov</p> <p><u>Division of Reliability and Security</u></p> <p>JB Cuartas, Director Jesus.Cuartas@bpu.nj.gov</p> <p>Thomasine Osborne, Analyst thomasine.osborne@bpu.nj.gov</p> <p>Lauren Mattox, Executive Assistant lauren.mattox@bpu.nj.gov</p>
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