



Agenda Date: 3/09/22
Agenda Item: VIA

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st 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)
)
) DOCKET NOS. AS22010010K et al.
) (see attached Appendix)

Parties of Record:

Diane Fredericks, Gloria Camp, Utility Line Service
Pete McAvoy, Dave Scupoline, Gray Supply Corp
Sal Lovaglio, Riverview Paving
Heather Funk, Enviroprobe Service Inc.
Stephanie Nealis, Seascope Communications Group
Daniel M. Castles, Bayonne Board of Education
Alison Sbriscia, New Jersey Natural Gas Company
Carolyn Jacobs, South Jersey Gas Company
Chelsea Vanheest, Public Service Electric and Gas Company
Nick Depoto, Elizabethtown Gas Company

BY THE BOARD:

I. BACKGROUND

The New Jersey 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 Act establishes 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, and/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.

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.

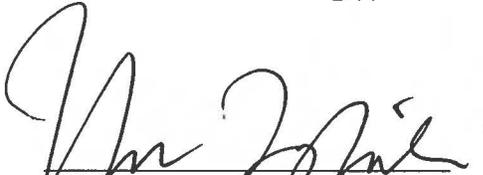
By acceptance of the Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations. It must 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 March 16, 2022.

DATED: March 9, 2022

BOARD OF PUBLIC UTILITIES
BY:



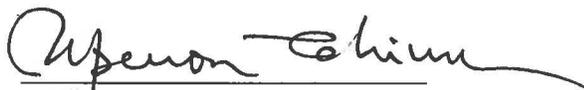
JOSEPH L. FIORDALISO
PRESIDENT



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. AS22010010K et al. (see attached Appendix)

SERVICE LIST

<p>Diane Fredericks Utility Line Services 43 Stony Creek Rd. Egg Harbor Township, NJ 08234 dfredericks@ulscorp.com</p> <p>Pete McAvoy Gray Supply Corp 199 Franklin Rd. Randolph, NJ 07869 mac@graysc.com</p> <p>Sal Lovaglio Riverview Paving 859 Willow Grove St. Hackettstown, NJ 07840 sal@riverviewpaving.com</p> <p>Heather Funk Enviroprobe Service Inc. 81 Marter Ave. Mt. Laurel, NJ 08054 hfunk@enviroprobe.com info.enviroprobe@gmail.com</p> <p>Stephanie Nealis Seascope Communications Group 220 Dorset Ct. Langhorne, Pa 19047 daveseascope@gmail.com</p> <p>Daniel M. Castles Bayonne Board of Education 669 Avenue A Bayonne, NJ 07002 dcastles@bboed.org</p> <p>Matko Ilic, DAG NJ Department of Law and Public Safety Richard J. Hughes Justice Complex Public Utilities Section 25 Market Street, Post Office Box 112 Trenton, NJ 08625 matko.ilic@law.njoag.gov</p>	<p>Alison Sbriscia New Jersey Natural Gas Company 1415 Wyckoff Rd. Wall, NJ 07719 asbriscia@njng.com</p> <p>Carolyn Jacobs South Jersey Gas Company SJI Utilities, LLC One South Jersey Place Atlantic City, NJ 08401 cjacobs@sjindustries.com</p> <p>Nick Depoto Elizabethtown Gas Company 520 Green Lane Union, NJ 07083 cdepoto@sjindustries.com</p> <p>Chelsey VanHeest Public Service Electric and Gas Company 80 Park Plaza Newark, NJ 07102 chelsey.vanheest@pseg.com</p> <p><u>Board of Public Utilities</u></p> <p>44 South Clinton Avenue, 1st Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p><u>Office of General Counsel</u></p> <p>Heather Weisband, Senior Counsel heather.weisband@bpu.nj.gov</p> <p><u>Division Reliability & Security</u></p> <p>Lauren Mattox, Executive Assistant lauren.mattox@bpu.nj.gov</p> <p>Thomasine Osborne, Analyst thomasine.osborne@bpu.nj.gov</p>
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