



Agenda Date: 6/29/22
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 & 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. GS22030155K
) et al.
) (see attached Appendix)

Parties of Record:

- Nick Depoto**, Elizabethtown Gas Company
- Wes Covely**, Pioneer Pipe Contractors
- J. Bitzer**, English Sewage Disposal, Inc.
- Ryan Detweiler**, Environmental Service Corp.
- Maura Almasi**, Almasi Contractors
- Chelsey VanHeest**, Public Service Electric and Gas Company
- Henry Varum**, Public Service Electric and Gas Company
- M.P. Scacifero**, Elizabethtown Gas Company
- Mitchell Knapp**, Scenic Landscaping, LLC
- Teresa M. Sepe**, Rest Assured Roofing
- Karen Siciliano**, Siciliano Landscaping
- Rodrigo Guzman**, Rod's Tree Service
- Tom Winkler**, Winks-Krug Landscaping
- Frank A. Santarpia**, Lawn & Order LLC
- Rory Senseman**, South State, Inc. General Contractors
- Charles Ferrciolo**, Clutch Electrical
- Michelle Sysol**, CM Sysol Contracting

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 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.

In an attempt to resolve these matters, the entities 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.

II. **DECISION AND FINDINGS**

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

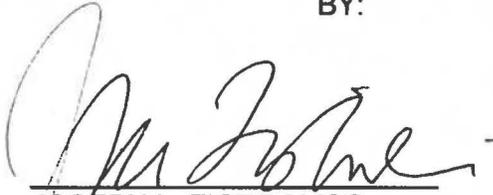
action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations. It must also be noted that the acceptance of the Offers of Settlement is for settlement purposes only and applies strictly to the specific incidents described in the Appendix. This acceptance 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 July 6, 2022.

DATED: June 29, 2022

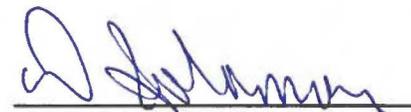
BOARD OF PUBLIC UTILITIES
BY:



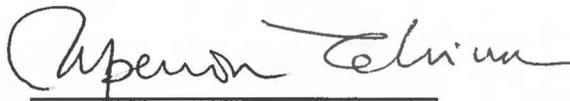
JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER

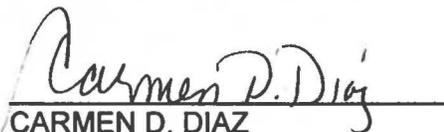


UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



CARMEN D. DIAZ
ACTING 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 to -91

DOCKET NOS. GS22030155K et al. (see attached Appendix)

SERVICE LIST

<p>Nick Depoto Elizabethtown Gas Company 520 Green Lane Union, NJ 07083 ndepoto@sjindustries.com</p> <p>Wes Covely Pioneer Pipe Contractors 2682 Glassboro Cross Keys Road Sewell, NJ 08080 wcovely@pioneerpipe.net</p> <p>J. Bitzer English Sewage Disposal, Inc. 1082 W. Parsonage Rd. Bridgeton, NJ 08902 JBitzer@englishsewage.com</p> <p>Ryan Detweiler Environmental Service Corp. 9121 Valley View Drive Clark Summit, PA 18411 Cody.hendricks@esc-pa.com</p> <p>Maura Almasi Almasi Contractors 184 Main Street Woodbridge, NJ 07095 MA@almasicontractors.com</p> <p>Chelsey VanHeest Public Service Electric & Gas Company 80 Park Plaza Newark, NJ 07102 Chelsey.vanheest@pseg.com</p> <p>Henry Varum Public Service Electric & Gas Company 80 Park Plaza Newark, NJ 07102 Henry.vaum@pseg.com</p> <p>M.P. Scacifero Elizabethtown Gas Company 520 Green Lane Union, NJ 07083 mscacifero@sjindustries.com</p> <p>Charles Ferrciolo Clutch Electrical 408 Devon Street Forked River, NJ 08731 Admin@clutchelectrical.com</p>	<p>Mitchell Knapp Scenic Landscaping, LLC 7 Argyle Street Haskell, NJ 07420 staff@sceniclandscaping.com</p> <p>Teresa M. Sepe Rest Assured Roofing 2329 Highway 34 Manasquan, NJ 08736 info@restassuredroofing.com</p> <p>Karen Siciliano Siciliano Landscaping 247 Bridge Avenue Red Bank, NJ 07701 sicilianolandscape@comcast.net</p> <p>Rodrigo Guzman Rod's Tree Service P.O. Box 236 Flanders, NJ 07836 Rodsni@outlook.com</p> <p>Tom Winkler Winks-Krug Landscaping 126 A Lakeview Terrace Oakland, NJ 07436 Tom@wklawn.com</p> <p>Frank A. Santarpia Lawn & Order, LLC P.O. Box 155 Mount Arlington, NJ 07856 Colleen.lawnandorder@yahoo.com</p> <p>Rory Senseman South State, Inc., General Contractors P.O. Box 68 Bridgeton, NJ 08302 rsenseman@apexsj.com</p> <p>Michelle Sysol CM Sysol Contracting 171 Sprague Avenue West Creek, NJ 08092 cmsysol@gmail.com</p>
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<p><u>Attorney General's Office</u> Matko Ilic, DAG NJ Department of Law and Public Safety Richard J. Hughes Justice Complex 25 Market Street – P.O. Box 112 Trenton, NJ 08625 Matko.ilic@law.njoag.gov</p> <p><u>Board of Public Utilities</u> 44 South Clinton Avenue, 1st Floor PO Box 350 Trenton NJ, 08625-0350</p> <p>Carmen Diaz, Acting Secretary board.secretary@bpu.nj.gov</p> <p>Stacy Peterson, Deputy Executive Director Stacy.peterson@bpu.nj.gov</p> <p>Heather Weisband, Esq., Senior Counsel Heather.weisband@bpu.nj.gov</p> <p><u>Division of Reliability & Security</u></p> <p>Jody Raines, Deputy Director Jody.raines@bpu.nj.gov</p> <p>Phillip Galka, Bureau Chief Phillip.galka@bpu.nj.gov</p> <p>Ann Lang Ann.lang@bpu.nj.gov</p> <p>Lauren Mattox Lauren.mattox@bpu.nj.gov</p>	
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Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Gas	GS22030155K	GOC2021-1338	Did not properly mark out	\$3000.00	Elizabeth Town Gas		10/21/2021	Hillside, NJ	03/14/2022
Gas	GS22030157K	GOC2022-0028	Did not have a valid mark out	\$3000.00		Pioneer Pipe Contractors	01/24/2021	Ocean City, NJ	03/08/2022
Gas	GS22030158K	GOC2022-0095	Did not have a valid mark out	\$3000.00		English Sewage Disposal Inc.	02/07/2021	Sewell, NJ	03/09/2022
Gas	ES22030159K	EOC2021-0309	Did not have a valid mark out	\$3000.00		Environmental Service Corp	10/28/2021	Montague, NJ	03/07/2022
Gas	GS22030160K	GOC2021-1715	Did not have a valid mark out	\$3000.00		Almasi Contractors	12/21/2021	New Brunswick, NJ	03/03/2022
Gas	GS22030161K	GOC2021-1714	Did not properly mark out	\$3000.00	PSE&G		12/21/2021	Wayne, NJ	02/23/2022
Gas	GS22030163K	GOC2021-1696	Did not properly mark out	\$3000.00	PSE&G		12/13/2021	Teaneck, NJ	03/04/2022
Gas	GS22030164K	GOC2021-1656	Did not properly mark out	\$3000.00	Elizabeth Town Gas		12/22/2021	Clark, NJ	03/08/2022
Gas	GS22030165K	GOC2021-1609	Did not have a valid mark out	\$3000.00		Scenic Landscaping, LLC	02/09/2021	Old Bridge, NJ	02/25/2022
Gas	GS22030166K	GOC2021-1545	Did not properly mark out	\$3000.00	Elizabeth Town Gas		12/02/2021	Fanwood, NJ	03/08/2022
Gas	GS22030167K	GOC2021-1543	Did not properly mark out	\$3000.00	Elizabeth Town Gas		11/24/2021	Linden, NJ	03/08/2022
Gas	GS22030168K	GOC2021-1541	Did not properly mark out	\$3000.00	Elizabeth Town Gas		11/22/2021	Fanwood, NJ	03/08/2022
Gas	GS22030169K	GOC2021-1537	Did not have a valid mark out	\$3000.00		Rest Assured Roofing	11/29/2021	Red Bank, NJ	03/03/2022
Gas	GS22030170K	GOC2021-1635	Did not have a valid mark out	\$3000.00		Siciliano Landscaping	12/08/2021	Monmouth Beach, NJ	02/23/2022
Gas	GS22030171K	GOC2021-1531	Did not have a valid mark out	\$3000.00		Rod's Tree Service	11/22/2021	Rockaway, NJ	02/28/2022
Gas	GS22030172K	GOC2021-1673	Did not have a valid mark out	\$3000.00		Winks-Krug Landscaping	12/01/2021	Ringwood, NJ	03/03/2022
Gas	GS22030173K	GOC2021-1488	Did not properly mark out	\$3000.00	PSE&G		10/21/2021	Old Bridge, NJ	02/23/2022
Gas	GS22030174K	GOC2021-1459	Did not properly mark out	\$3000.00	Elizabeth Town Gas		10/25/2021	Linden, NJ	03/09/2022
Gas	GS22030175K	GOC2021-1370	Did not have a valid mark out	\$3000.00		Lawn & Order	10/19/2021	Mount Arlington, NJ	03/15/2022

Gas	GS22030176K	GOC2021-1352	Failed to maintain	\$3000.00		South State Inc., Gen' l Contractors	10/20/2021	Woolwich, NJ	03/08/2022
Gas	GS22030177K	GOC2021-1336	Did not properly mark	\$3000.00	Elizabeth Town Gas		10/20/2021	Fords, NJ	03/08/2022
Gas	GS22030178K	GOC2021-1335	Did not properly mark out	\$3000.00	Elizabeth Town Gas		10/18/2021	Woodbridge, NJ	03/08/2022
Gas	GS22030179K	GOC2021-0100	Did not have a valid mark out	\$3000.00		Clutch Electrical	02/09/2021	Forked River, NJ	02/28/2022
Gas	GS22030180K	GOC2022-0099	Did not have a valid mark out	\$3,000.00		C M Sysol Contracting	02/09/2021	Brant Beach, NJ	03/22/2022
			24 Cases	\$72,000					