



Agenda Date: 7/13/22
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)
)
) DOCKET NOS. ES22060393K
) et al. (see attached Appendix)

Parties of Record:

- Tim Cubukcu**, TC Plumbing & Heating LLC
- Byron Peters, Jr.**, Atlantic City Electric Company
- Donald Richards**, Jersey Central Power & Light Company
- Lauriston Stephenson**, Public Service Electric and Gas Company
- Bruce-Chris, Inc.**, RG Electric
- Jason Tower, Pro se**
- Peter Brittain**, Coast Land Development
- F. Sciglitano**, Balitano Construction Co.

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.

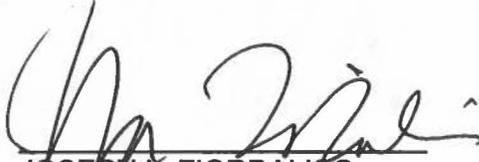
By acceptance of the Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations. It must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

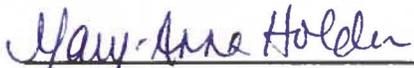
This Order shall be effective on July 20, 2022.

DATED: July 13, 2022

BOARD OF PUBLIC UTILITIES
BY:



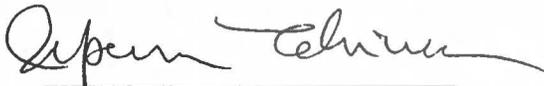
JOSEPH L. FIORDALISO
PRESIDENT



MARYANNA 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. ES22060393K et al. (see attached Appendix)

SERVICE LIST

<p>Jason Tower</p> <p>Tim Cubukcu TC Plumbing and Heating LLC 8 Alvin Terrace Springfield, NJ 07081 Patti.cubukcu@hotmail.com</p> <p>Peter Brittain Coast Land Development P.O. Box 335 Allentown, NJ 08501</p> <p>F. Sciglitano Balitano Construction Co. 298 Forest Rd. Fort Lee, NJ 07024 info@balitano.com</p> <p>Lauriston Stephenson Public Service Electric & Gas Company P.O. Box 1868 Newark, NJ 07101 lauriston.stephenson@pseg.com</p> <p>Bruce-Chris, INC T/A – RG Electric 2214 Craig Dr. Hainesport, NJ 08036</p> <p>Donald Richards Jersey Central Power & Light 300 Madison Ave Morristown, NJ 07962 aphelp@firstenergycorp.com</p> <p>Byron Peters, Jr. Atlantic City Electric Company 5100 Harding Way Mays Landing, NJ 08330 Byron.petersjr@exeloncorp.com</p>	<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 auren.mattox@bpu.nj.gov</p>
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