



Agenda Date: 9/7/22
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.
) WS22080489K et al. (see
) attached Appendix)

Parties of Record:

- Lauriston Stephenson**, Public Service Electric and Gas Company
- Mike Widmer**, South Jersey Gas Company
- Alison Sbrisca**, New Jersey Natural Gas Company
- Jacki Weaver**, New Jersey American Water Company
- Donald Richards**, Jersey Central Power & Light Company
- Michael Carmack**, A&M Landscape Management
- Robert Vecchio**, Vecchio's Pools
- John Kelly**, Mechanical Contractor
- Blue Jay Equities LLC**, Gefen Construction
- Rob Patillo**, Renault Winery
- Dov Waldman**, Jayside Concrete Inc.
- Michael N. Boccino**, Unlimited 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.

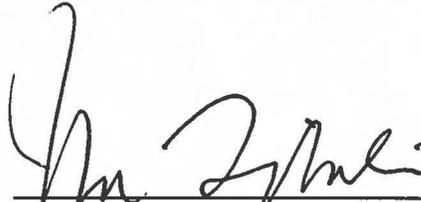
By acceptance of the Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations. It must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

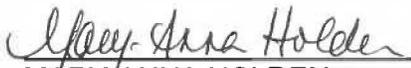
This Order shall be effective on September 14, 2022.

DATED: September 7, 2022

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



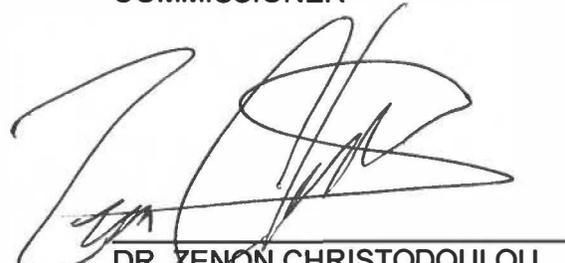
MARY ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER



DR. XENON CHRISTODOULOU
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. WS22080489K et al. (see attached Appendix)

SERVICE LIST

<p>Lauriston Stephenson Public Service Electric & Gas Company P.O. Box 1868 Newark, NJ 07101 lauriston.stephenson@pseg.com</p> <p>Mike Widmer South Jersey Gas Company 1 South Jersey Plaza Folsom, NJ 08037 mwidmer@sjindustries.com</p> <p>Alison Sbrisca New Jersey Natural Gas Company 1415 Wyckoff Road Wall, NJ 07719 asbriscia@njng.com</p> <p><u>New Jersey American Water Company</u></p> <p>167 JFK Parkway Short Hills, NJ 07078</p> <p>Eileen Reidy eileen.reidy@amwater.com</p> <p>Jacki Weaver jacki.weaver@amwater.com</p> <p><u>JCP&L</u></p> <p>300 Madison Avenue Morristown, NJ 07962</p> <p>Josh Eckert, Esq. jeckert@firstenergycorp.com</p> <p>Donald Richards Drichards@firstenergycorp.com</p> <p>Michael Carmack A&M Landscape Management 32 Midwood Road Marlton, NJ 08058 office@aandmlandscaping.com</p> <p>Robert Vecchio Vecchio's Pools 707-6 Old Shore Rd. Forked River, NJ 08731 vecchiopools@yahoo.com</p>	<p>John Kelly, Mechanical Contractor 932 4th Ave. Neptune City, NJ 07753 Jkmc2013@yahoo.com</p> <p>Blue Jay Equities LLC Gefen Construction 2 Negba Street, Suite 1 Lakewood, NJ 08701 office@gefenconstruction.com</p> <p>Rob Patillo Renault Winery 72 N. Bremen Ave. Egg Harbor, NJ 08215 info@renaultwinery.com</p> <p>Dov Waldman Jayside Concrete Inc. 2360 Lakewood Road Suite 3-103 Toms River, NJ 08755</p> <p>Michael N. Boccino Unlimited Contracting 547 Adamston Road Brick, NJ 08723 Unlimitedcontracting91@gmail.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>Robert Brabston, Esq., Executive Director robert.brabston@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>
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<p><u>Division of Reliability & Security</u></p> <p>Francis Gaffney, Director Francis.gaffney@bpu.nj.gov</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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In the Matter of Alleged Violations of the Underground Facility Protection Act
 NJSA 48:2-73 et. seq., Order Accepting Settlements – Bureau of One Call Settlements
 Appendix – September 7, 2022
 Dockets Nos. GS22080489K

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Water	WS22080489K	WOC2022-0042	Did not properly mark out	\$3,000	NJ American Water Co.		03/29/2022	Atlantic Ave., Somers Point, NJ	06/21/2022
Electric	ES22080490K	EOC2022-0083	Did not properly mark out	\$3,000	JCP&L		03/22/2022	Montreal Court, Berkeley, NJ	06/27/2022
Gas	GS22080491K	GOC2022-0090	Did not properly mark out	\$3,000	PSE&G (G)		01/27/2022	Walker Road, West Orange, NJ	06/01/2022
Gas	GS22080492K	GOC2022-0221	Did not properly mark out	\$3,000	South Jersey Gas		03/16/2022	Shepherd Drive, Northfield, NJ	06/20/2022
Gas	GS22080493K	GOC2022-0228	Did not properly mark out	\$3,000	South Jersey Gas		03/23/2022	East Drive, Linwood, NJ	06/20/2022
Gas	GS22080494K	GOC2022-0262	Did not have a valid mark out	\$3,000		Gefen Construction	03/31/2022	Blue Jay Way, Lakewood, NJ	06/20/2022
Electric	ES22080496K	EOC2022-0034	Did not have a valid mark out	\$3,000		Renault Winery	03/31/2022	Bremen Ave., Harbor City, NJ	06/27/2022
Gas	GS22080497K	GOC2022-0356	Did not have a valid mark out	\$3,000		John Kelly Mechanical Contr.	04/08/2022	7 th Ave., Belmar, NJ	06/01/2022
Gas	GS22080498K	GOC2022-0384	Did not properly mark out	\$3,000	South Jersey Gas		04/25/2022	Doughty Rd., Pleasantville, NJ	06/20/2022
Gas	GS22080499K	GOC2022-0405	Did not have a valid mark out	\$3,000		Vecchio's Pools	04/25/2022	Beach Blvd., Forked River, NJ	06/15/2022
Gas	GS22080500K	GOC2022-0446	Did not have a valid mark out	\$3,000		Unlimited Contracting	04/19/2022	Millstone Rd., Millstone, NJ	06/20/2022
Gas	GS22080501K	GOC2022-0506	Did not have a valid mark out	\$3,000		A&M Landscape Management	05/11/2022	Ocean Drive, Brigantine, NJ	06/15/2022
Gas	GS22080502K	GOC2022-0508	Did not properly mark out	\$3,000	NJ Natural Gas		05/02/2022	Crestview Terr., Bay Head, NJ	06/15/2022
Gas	GS22080503K	GOC2022-0510	Did not properly mark out	\$3,000	NJ Natural Gas		05/02/2022	Surrey Drive, Hazlet, NJ	06/15/2022
Gas	GS22080504K	GOC2022-0517	Did not properly mark out	\$3,000	NJ Natural Gas		06/05/2022	Meadow Court, Montville, NJ	06/15/2022
Gas	GS22080505K	GOC2022-0521	Did not properly mark out	\$3,000	NJ Natural Gas		05/06/2022	US Highway 9, Howell, NJ	06/15/2022
Gas	GS22080506K	GOC2022-1629	Did not have a valid mark out	\$3,000		Jayside Concrete Inc.,	10/22/2020	Cherry Street, Lakewood, NJ	06/06/2022
Total Cases	17								
Fines paid	\$51,000.00								