



Agenda Date: 9/28/22
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. GS22080517K
) et al. (see attached Appendix)

Parties of Record:

- Mike Widmer**, South Jersey Gas Company
- Alison Sbrisca**, New Jersey Natural Gas Company
- Mike Malloy**, New Jersey American Water Company
- Marla Kohut**, Kohut & Son Landscaping LLC
- Brewer Septic**
Advanced Plastering
- J. Scott Horn**, Acer Associates
- Jay Rowe**, Rowe Electric
- Heather Altibelli**, Signs and Safety Devices
- Pankaj Shah**, Sunshine Developers, LLC
- Pedro Luna**, Pro se
- Bradford Foster**, BF Plumbing
- Joseph Peregman**, Ocean Tents and Party Rentals
- Brian Trematore**, Brian Trematore Plumbing and Heating

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

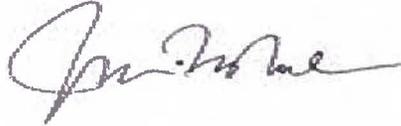
subdivision thereof if other violations are present, now or in the future.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

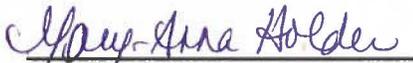
This Order shall be effective on October 5, 2022.

DATED: September 28, 2022

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



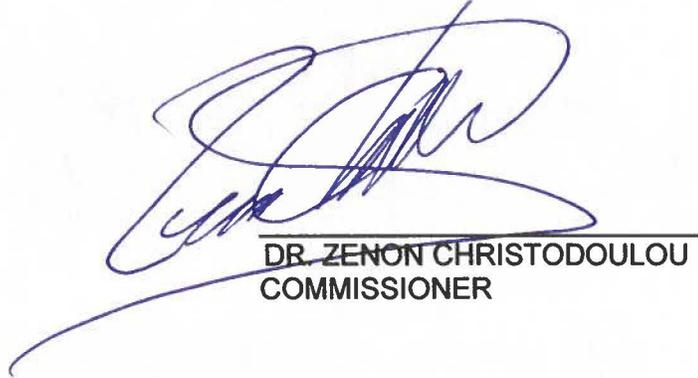
MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER



DR. ZENON CHRISTODOULOU
COMMISSIONER

ATTEST:



ROBERT M. GORDON
COMMISSIONER



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. GS22080517K et al. (see attached Appendix)

SERVICE LIST

<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>Mike Malloy New Jersey American Water Company 167 JFK Parkway Short Hills, NJ 07078 Eileen.Reidy@amwater.com</p> <p>Marla Kohut Kohut & Son Landscaping LLC P.O. Box 683 Boonton, NJ 07005 mdkohut@optonline.com</p> <p>Brewer Septic 360 Monroe Ave. Manchester, NJ 08759</p> <p>Advanced Plastering 2 Liberty Ave. Eaglesville, PA 19403 renee@advancedplastering.net</p> <p>J. Scott Horn Acer Associates 1012 Industrial Dr. West Berlin, NJ 08091 info@acerassociates.com</p> <p>Jay Rowe Rowe Electric P.O. Box 276 Ringoes, NJ 08815 accounting@rowe-electric.com</p>	<p>Heather Altibelli Signs and Safety Devices 201 Wilton Ave., Middlesex, NJ 08846 Heather@signsandsafetydevices.com</p> <p>Pankaj Shah Sunshine Developers 3 2nd Street Englewood Cliffs, NJ 07632</p> <p>Pedro Luna 158 Pleasant Ave. Englewood, NJ 07631</p> <p>Bradford Foster B F Plumbing 77 Upper Neck Rd. Pittsgrove, NJ 08318 BFplumbing@comcast.net</p> <p>Joseph Peregman Ocean Tents and Party Rentals 801 East Bay Ave. Manahawkin, NJ 08050 info@oceantents.com</p> <p>Sally Finelli Brian Trematore Plumbing and Heating 5 Daniel Rd. Fairfield, NJ 07004 Sfinelli@trematore.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>
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<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>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
N.J.S.A. 48:2-73 et seq., Order Accepting Settlements – Bureau of One Call Settlements
Appendix – September 28, 2022
Docket Nos. GS22080517K et al.

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
GAS	GS22080517K	GOC2022-0647	Did not properly mark out	\$3,000	SJ Gas		06/10/2022	Laura Lane, Elmer, NJ	08/10/2022
GAS	GS22080518K	GOC2022-0577	Did not properly mark out	\$3,000	NJ Natural Gas		05/19/2022	Marian Street Toms River, NJ	08/10/2022
GAS	GS22080519K	GOC2022-0531	Did not have valid mark out	\$3,000		Kohut & Son Landscaping	05/12/2022	Lake Drive Mt. Lakes, NJ	08/10/2022
GAS	GS22080520K	GOC2022-0040	Did not properly mark out	\$3,000	NJ Natural Gas		01/21/2022	Union Ave., Morganville, NJ	08/10/2022
GAS	GS22080521K	GOC2021-0026	Did not have valid mark out	\$3,000	NJ Natural Gas		01/13/2021	Dean Road Oakhurst, NJ	08/10/2022
GAS	GS22080522K	GOC2020-1646	Did not have valid mark out	\$3,000		Brewer Septic	10/28/2020	Commwealth Blvd. Manchester, NJ	08/10/2022
GAS	GS22080523K	GOC2022-0636	Did not have valid mark out	\$3,000		Advanced Plastering	06/04/2022	Ocean Drv., W. Brigantine, NJ	08/10/2022
GAS	GS22080524K	GOC2022-0552	Did not have valid mark out	\$3,000		Acer Associates	05/18/2022	Rt. 206, Tabernacle, NJ	08/10/2022
GAS	GS22080525K	GOC2022-0317	Did not have valid mark out	\$3,000		Rowe Electric	03/21/2022	Mount Bethel Rd., Warren, NJ	08/10/2022
GAS	GS22080526K	GOC2021-0059	Did not properly mark out	\$3,000	NJ Natural Gas		01/21/2021	Park Avenue Oakhurst, NJ	08/10/2022
GAS	GS22080527K	GOC2021-0019	Did not properly mark out	\$3,000	NJ Natural Gas		01/06/2021	Sunset Ave., Asbury, NJ	08/10/2022
GAS	GS22080528K	GOC2020-1634	Did not have valid mark out	\$3,000		Signs & Safety Devices	10/24/2020	Homes Street Boonton, NJ	08/10/2022
GAS	GS22080529K	GOC2022-0584	Did not properly mark out	\$3,000	NJ Natural Gas		05/31/2022	Hudson & IL. Ave Middletown, NJ	08/10/2022
GAS	GS22080530K	GOC2022-0534	Did not have valid mark out	\$3,000		Sunshine Developers, LLC	05/17/2022	Bina Court Edison, NJ	08/10/2022
GAS	GS22080531K	GOC2022-0274	Did not have valid mark out	\$3,000		Pedro Luna	03/05/2022	Pleasant Ave., Englewood, NJ	08/10/2022
GAS	GS22080532K	GOC2021-0055	Did not properly mark out	\$3,000	NJ Natural Gas		01/19/2022	Celeste Drive Wall, NJ	08/10/2022
GAS	GS22080533K	GOC2021-0007	Did not have valid mark out	\$3,000		BF Plumbing	01/11/2021	Autumn Lane Egg Harbor, NJ	08/10/2022
WATER	WS22080534K	WOC2022-0051	Did not properly mark out	\$3,000	NJ American Water		03/30/2022	Baker Street Berkeley Hgts, NJ	08/10/2022
WATER	WS22080535K	WOC2022-0052	Did not properly mark out	\$3,000	NJ American Water		03/30/2022	Baker Street Berkeley Hgts., NJ	08/10/2022
GAS	GS22080536K	GOC2022-0674	Did not have valid mark out	\$3,000		Ocean Tents & Party Rentals	06/09/2022	3 rd Street Beach Haven, NJ	08/10/2022
GAS	GS22080537K	GOC2022-0662	Did not have valid mark out	\$3,000		Brian Trematore Plumbing & Heating	06/02/2022	Chamberlain St., Toms River, NJ	08/10/2022
Total Case	21								
Fines paid	\$63,000								