



Agenda Date: 8/14/24

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)	ORDER ACCEPTING
THE UNDERGROUND FACILITY PROTECTION)	SETTLEMENTS
ACT, N.J.S.A. 48:2-73 ET SEQ.)	
)	DOCKET NOS. ES24060434 K
)	et al. (see attached Appendix)

Party of Record:

Paula James, Atlantic City Electric Company
Jeff Ogbor, Elizabethtown Gas Company
Financial Custodial Officer, Homestead Fence Company
Doug Meneeley, Jersey Central Power & Light Company
Ryan Allen, New Jersey-American Water Company, Inc.
Financial Custodial Officer, Pioneer Pipe Contractors
Financial Custodial Officer, Underground Utilities Corp.
Maura Clark, New Jersey Natural Gas Company

BY THE BOARD¹:

I. BACKGROUND

The New Jersey Board of Public Utilities ("Board") has jurisdiction to oversee and enforce the provisions of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. ("Act"). The Act establishes the One-Call Damage Prevention System ("One-Call 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 hazardous liquids. 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.

¹ Commissioner Michael Bange recused himself due to a potential conflict of interest, and as such, took no part in the discussion or deliberation of this matter.

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 One-Call System prior to commencing excavation and failing to mark out or properly mark out underground facilities, Board Staff issued a Notice of Probable Violation and Offer of Settlement to the alleged violator and informed them of the date and location of the alleged violations. A complete list of accepted said Offers of Settlement is provided in Appendix A attached hereto and made a part hereof.²

II. DISCUSSION AND FINDINGS

After consideration of the matters provided in Appendix A, 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 Appendix A 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 Appendix A. 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.

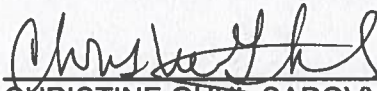
² The thirty-nine (39) Offers of Settlement were accepted by the alleged violators, and each made full payment on the dates provided in Appendix A.

NO FURTHER ACTION BY THE RESPONDENT IS REQUIRED.

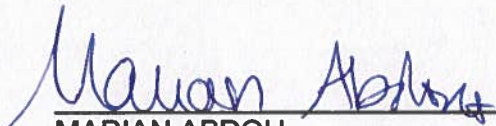
This Order shall be effective on August 21, 2024.

DATED: August 14, 2024

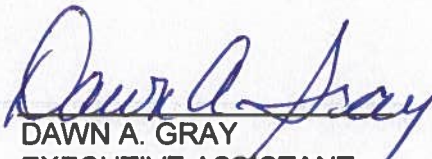
BOARD OF PUBLIC UTILITIES
BY:


CHRISTINE GUHL-SADOVY
PRESIDENT


DR. ZENON CHRISTODOULOU
COMMISSIONER


MARIAN ABDOU
COMMISSIONER

ATTEST:


DAWN A. GRAY
EXECUTIVE ASSISTANT

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 ET SEQ.

DOCKET NOS. ES24060434K et al. (see attached Appendix)

SERVICE LIST

Paula James
Atlantic City Electric Company
5100 Harding Highway
Mays Landing, NJ 08330
paula.james@atlanticcityelectric.com

Jeff Ogor
Elizabethtown Gas Company
520 Green Lane
Union, NJ 07083
hjogborn@sjindustries.com

Homestead Fence Company
637 Rte 9
West Creek, NJ 08092
Attention: Financial Custodial Officer

Doug Meneeley
Jersey Central Power & Light
1500 Florence Avenue
Union Beach, NJ 07735
dmeneeley@firstenergycorp.com

Pioneer Pipe Contractors
2682 Glassboro Cross Keyes Rd.
Sewell, NJ 08080
Attention: Financial Custodial Officer

Ryan Allen
New Jersey-American Water Company, Inc.
167 JFK Parkway
Short Hills, NJ 07078
ryan.allen@amwater.com

Underground Utilities Corp
711 Commerce Road
Linden, NJ 07036
Attention: Financial Custodial Officer

Maura Clark
New Jersey Natural Gas Company
1415 Wyckoff Road
Wall, NJ 07719
mclark@njng.com

Board of Public Utilities
44 South Clinton Avenue, 1st Floor
PO Box 350
Trenton NJ, 08625-0350

Sherri L. Golden, Board Secretary
board.secretary@bpu.nj.gov

Stacy Peterson, Deputy Executive Director
stacy.peterson@bpu.nj.gov

Heather Weisband, Senior Counsel
heather.weisband@bpu.nj.gov

Division of Reliability & Security

Francis Gaffney, Director
francis.gaffney@bpu.nj.gov

Shawn McIvor, Deputy Director
shawn.mcivor@bpu.nj.gov

Ann Lang
ann.lang@bpu.nj.gov

Lauren Mattox
lauren.mattox@bpu.nj.gov

Attorney General's Office

Matko Ilic, DAG
Richard J. Hughes Justice Complex
25 Market Street– P.O. Box 112
Trenton, NJ 08625
matko.ilic@law.njoag.gov

APPENDIX A

In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq.

Docket Nos. ES24060434K et al.

Facility Damaged	BPU Docket #	One Call Case #	Type of Violation	Penalty	Alleged Violator	Violation Date	Location	Payment Date
ELECTRIC	ES24060434K	EOC2021-0153	Did not properly mark out	\$2,500	Atlantic City Elec.	06/09/2021	Norman Ford Dr. Sicklerville, NJ	10/11/2023
ELECTRIC	ES24060435K	EOC2022-0088	Did not properly mark out	\$2,500	Atlantic City Elec.	04/09/2022	Redwood Court Monroe, NJ	10/11/2023
ELECTRIC	ES24060436K	EOC2022-0089	Did not properly mark out	\$2,500	Atlantic City Elec.	04/11/2022	Sandlewood Rd. Lower Twsp., NJ	10/11/2023
ELECTRIC	ES24060438K	EOC2022-0174	Did not properly mark out	\$2,500	Atlantic City Elec.	04/27/2022	Damascus Rd., Franklinville, NJ	10/11/2023
ELECTRIC	ES24060439K	EOC2023-0021	Did not properly mark out	\$2,500	Atlantic City Elec.	02/09/2022	Country Ln. Buena Vista, NJ	10/11/2023
GAS	GS24060440K	GOC2018-0498	Did not properly mark out	\$3,000	E'Town Gas	05/23/2018	Freeman Street, Woodbridge, NJ	10/05/2023
GAS	GS24060441K	GOC2021-0851	Did not properly mark out	\$3,000	E'Town Gas	07/20/2021	Sanford Ave., Hillside, NJ	10/05/2023
GAS	GS24060442K	GOC2022-0370	Did not properly mark out	\$3,000	E'Town Gas	04/25/2022	Hopewell Pennington Rd. Hopewell, NJ	10/05/2023
GAS	GS24060443K	GOC2022-0812	Did not properly mark out	\$3,000	E'Town Gas	07/20/2022	Amboy Avenue, Woodbridge, NJ	10/05/2023
GAS	GS24060444K	GOC2023-0585	Did not properly mark out	\$3,000	E'Town Gas	06/19/2023	Fawnridge Drive Long Valley, NJ	10/05/2023
GAS	GS24060445K	GOC2023-0698	Did not properly mark out	\$3,000	E'Town Gas	06/26/2023	Darby Court Annandale, NJ	10/05/2023
GAS	GS24060446K	GOC2022-0139	Did not properly mark out	\$3,000	E'Town Gas	03/02/2022	South Street Elizabeth, NJ	10/10/2023
GAS	GS24060447K	GOC2020-1508	Did not properly mark out	\$3,000	E'Town Gas	10/21/2020	Columbia Avenue Metuchen, NJ	06/15/2023
GAS	GS24060448K	GOC2022-0882	Did not have a mark out	\$3,000	Homestead Fence	07/18/2022	Barneget Blvd. Barneget, NJ	11/09/2022
GAS	GS24060449K	GOC2021-0898	Did not have a mark out	\$3,000	Homestead Fence	07/28/2021	2 nd Street Beach Haven, NJ	06/14/2023
GAS	GS24060450K	GOC2020-1627	Did not properly mark out	\$3,000	JCP&L	10/21/2020	Spring Street Red Bank, NJ	06/20/2023
ELECTRIC	ES24060451K	EOC2021-0177	Did not properly mark out	\$2,500	JCP&L	06/16/2021	Gull Way, Keyport, NJ	10/10/2023

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ELECTRIC	ES24060452K	EOC2022-0118	Did not properly mark out	\$2,500	JCP&L	04/21/2022	Heathstone Drive Englishtown, NJ	10/11/2023
ELECTRIC	ES24060453K	EOC2022-0201	Did not properly mark out	\$2,500	JCP&L	09/29/2022	Huemer Lane, Chester, NJ	10/11/2023
ELECTRIC	ES24060454K	EOC2022-0205	Did not properly mark out	\$2,500	JCP&L	09/14/2022	Catherine Terrace Andover, NJ	10/11/2023
ELECTRIC	ES24060457K	EOC2021-0311	Did not properly mark out	\$2,500	JCP&L	11/20/2021	Discovery Way Toms River, NJ	12/20/2023
ELECTRIC	ES24060458K	EOC2021-0314	Did not properly mark out	\$2,500	JCP&L	12/10/2021	Harbor Court W. Long Branch, NJ	12/20/2023
ELECTRIC	ES24060459K	EOC2022-0070	Did not properly mark out	\$2,500	JCP&L	02/10/2022	US 202 Parsippany, NJ	12/20/2023
ELECTRIC	ES24060460k	EOC2023-0151	Did not properly mark out	\$2,500	JCP&L	06/15/2023	Argyll Circle Lakewood, NJ	12/20/2023
ELECTRIC	ES24060461K	EOC2021-0219	Did not properly mark out	\$2,500	JCP&L	07/28/2021	Wildgeese Circle Browns Mills, NJ	10/11/2024
GAS	GS24060462K	GOC2021-0811	Did not properly mark out	\$3,000	.SJG	07/06/2021	Bayland Drive Ocean City, NJ	11/15/2023
GAS	GS24060463K	GOC2022-0114	Did not have a valid Mark out	\$3,000	Pioneer Pipe Contr.	02/17/2022	Haven Avenue Ocean City, NJ	08/23/2023
GAS	GS24060464K	GOC2021-0611	Failure to use care	\$3,000	Pioneer Pipe Contr.	05/25/2021	Ithaca Ave., Delran, NJ	02/15/2024
GAS	GS24060426K	GOC2021-1044	Did not have a valid mark out	\$3,000	Undrgrd. Utilities	08/27/2021	Coachman Dr. Freehold, NJ	10/11/2023
GAS	GS24060427K	GOC2023-0062	Did not properly mark out	\$3,000	NJNG	02/01/2023	Bay Ave., Beach Haven, NJ	10/11/2024
WATER	WS24060428K	WOC2022-0153	Did not properly mark out	\$3,000	NJ Amer. Water	11/07/2022	Shadowlawn Dr. Westfield, NJ	08/08/2023
WATER	WS24060429K	WOC2022-0154	Did not properly mark out	\$3,000	NJ Amer. Water	11/10/2022	E. Curtis Street Linden, NJ	08/08/2023
WATER	WS24060430K	WOC2022-0163	Did not properly mark out	\$3,000	NJ Amer. Water	12/05/2022	W. 1 ST Ave., Roselle, NJ	08/08/2023

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Facility Damaged	BPU Docket #	One Call Case #	Type of Violation	Penalty	Alleged Violator	Violation Date	Location	Payment Date
WATER	WS24060431K	WOC2022-0165	Did not properly mark out	\$3,000	NJ Amer. Water	12/15/2022	Aldene Rd. Roselle, NJ	08/08/2023
NON-DAMAGE	WS24060432K	NOC2019-0025	Did not properly mark out	\$3,000	NJ Amer. Water	02/28/2019	Larch Dr., Chester, NJ	09/27/2023
WATER	WS24060433K	WOC2022-0133	Did not properly mark out	\$3,000	NJ Amer. Water	09/13/2022	Summit Ave., Westfield, NJ	09/28/2023
GAS	GS23040251K	GOC2022-1344	Did not properly mark out	\$3,000	E'Town Gas	10/24/2022	Salem Road Union, NJ	03/23/2023
GAS	GS23040252K	GOC2022-1345	Did not properly mark out	\$3,000	E'Town Gas	10/25/2022	Salem Road Union, NJ	03/23/2023
WATER	WS23040258K	WOC2022-0168	Did not have a valid mark out	\$3,000	JCP&L	12/20/2022	US 206 Peapack Gladstone, NJ	03/23/2023
Total Cases: 39								
Total Penalties: \$110,000								