



Agenda Date: 5/21/26  
Agenda Item: 6A

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://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, BY OPTIMUM COMMUNICATIONS )  
INC. )  
)  
) ADMINISTRATIVE ORDER AND  
) NOTICE OF CIVIL  
) ADMINISTRATIVE PENALTY  
) ASSESSMENT  
)  
) DOCKET NO. CS26050206K

**Party of Record:**

**James H. Laskey, Esq.** Norris McLaughlin, P.A., on behalf of Optimum Communications Inc.

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities (“Board”) considers a request from the Board’s Division of Reliability and Security, Bureau of One Call (“BOC”), to issue an Administrative Order and Notice of Civil Administrative Penalty Assessment (“AONOCAPA”) to Optimum Communications, Inc. (“Respondent”) for alleged violation(s) of the Underground Facility Protection Act, N.J.S.A. 48:2-73, et seq. (“Act”).

**BACKGROUND AND PROCEDURAL HISTORY**

The Board has jurisdiction to oversee and enforce the provisions of the Act and all rules and regulations promulgated thereto. For violations of the Act, the Board may, among other things, impose a civil penalty by means of an AONOCAPA.<sup>1</sup> The civil penalty must be “not less than \$1,000 and not more than \$2,500 per day for each day the violation continues, except that the maximum civil penalty may not exceed \$25,000 for any related series of violations.”<sup>2</sup>

The Act requires underground facility operators to maintain a record of all damages to its underground facilities, including damage reported by an excavator, and “provide an updated copy of this record to the Board on a quarterly basis” (“Quarterly Reports”).<sup>3</sup> In 2023, the BOC discovered that Respondent had not filed Quarterly Reports since July 2018. That October, the BOC met with Respondent to discuss the missing Quarterly Reports. Approximately two (2) years later, on July 1, 2025, a routine inspection uncovered unmarked, damaged cable lines belonging

<sup>1</sup> N.J.A.C. 14:2-6.1 (b).

<sup>2</sup> N.J.S.A. 48:2-88(a).

<sup>3</sup> N.J.S.A. 48:2-80(c); N.J.A.C. 14:2-4.4(j)(1).

to Respondent. Upon further investigation, BOC determined that Respondent remained noncompliant with the Act, still failing to file Quarterly Reports.

On July 9, 2025, the BOC issued a Letter of Inquiry (“LOI”) to Respondent. Thereafter, without contesting the allegations, Respondent filed the twenty-seven (27) outstanding Quarterly Reports. On September 6, 2025, the BOC issued a Notice of Probable Violation (“NOPV”) for failure to file the twenty-seven (27) Quarterly Reports beginning July 1, 2018, through March 31, 2025. In lieu of a formal proceeding, the BOC provided Respondent an offer of settlement in the amount of \$675,000 representing \$25,000 per missing Quarterly Report multiplied by twenty-seven (27). The BOC’s justification for imposing the maximum \$25,000 per violation was 1) the length of time of the non-compliance, 2) continuing non-compliance after meeting with BOC, and 3) placing New Jersey citizens at risk for almost seven (7) years because without the Quarterly Reports, the BOC was unaware of damages to underground facilities and was unable to conduct reasonable investigations and penalize violators.

In its Answering Certification, Respondent requested an “informal settlement conference” with the BOC to present “new mitigating circumstances” regarding the penalty amount. In accordance therewith, the BOC and Respondent, along with their counsel, participated in settlement conferences and exchanged correspondence. BOC concluded that Respondent offered no new evidence of mitigating circumstances which would justify a reduction in the \$675,000 penalty.

The NOPV remains outstanding.

As the NOPV was not resolved informally, the BOC presented this matter to the Board for further action and requested the issuance of an AONOCAPA.<sup>4</sup>

## **FINDINGS**

Pursuant to the BOC’s investigation, the Board makes the following findings:

1. October 4, 2023: the BOC met with Respondent to address its failure to file Quarterly Reports.
2. July 1, 2025: A routine pipeline inspection uncovered unmarked, damaged, cable lines belonging to Respondent. Upon investigation, the BOC discovered Respondent’s continued failure to file Quarterly Reports.
3. July 9, 2025: The BOC issued an LOI to Respondent.
4. July 30, 2025 – August 22, 2025: Respondent filed the outstanding twenty-seven (27) Quarterly Reports.
5. September 6, 2025: The BOC issued an NOPV to Respondent and, in lieu of a formal proceeding, the BOC provided an offer of settlement in the amount of \$675,000; \$25,000 per Quarterly Report multiplied by twenty-seven (27) Quarterly Reports.

---

<sup>4</sup> N.J.A.C. 14:2-6.5(e).

6. September 27, 2025: Respondent filed an Answering Certification selecting “Option 2;” requesting an informal settlement conference to present evidence of new mitigating circumstances to warrant a reduction of the \$675,000 penalty.
7. October 2025 – December 2025: The BOC and Respondent, along with Respondent’s counsel, participated in settlement conferences and exchanged correspondence, BOC concluded that Respondent offered no new evidence of mitigating circumstances which would justify a reduction in the \$675,000.
8. May 21, 2026: The NOPV remains outstanding.

## **VIOLATIONS**

After a complete review of the record in this matter, the Board **HEREBY FINDS** that Respondent committed the following violations of the Act:

- a. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Third Quarter of 2018
- b. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Fourth Quarter of 2018
- c. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the First Quarter of 2019
- d. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Second Quarter of 2019
- e. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Third Quarter of 2019
- f. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Fourth Quarter of 2019
- g. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the First Quarter of 2020
- h. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Second Quarter of 2020
- i. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Third Quarter of 2020
- j. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Fourth Quarter of 2020
- k. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the First Quarter of 2021

- l. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Second Quarter of 2021
- m. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Third Quarter of 2021
- n. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Fourth Quarter of 2021
- o. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the First Quarter of 2022
- p. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Second Quarter of 2022
- q. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Third Quarter of 2022
- r. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Fourth Quarter of 2022
- s. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the First Quarter of 2023
- t. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Second Quarter of 2023
- u. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Third Quarter of 2023
- v. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Fourth Quarter of 2023
- w. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the First Quarter of 2024
- x. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Second Quarter of 2024
- y. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Third Quarter of 2024
- z. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the Fourth Quarter of 2024
- aa. **Violation: N.J.S.A. 48:2-80(c)** Failure to report damage to the BPU during the First Quarter of 2025

## **NOTICE OF CIVIL ADMINISTRATIVE PENALTY ASSESSMENT AND RIGHT TO A HEARING**

The Act provides the Board with the authority to issue an AONOCAPA. After reviewing the record in this matter, pursuant to N.J.A.C. 14:2-6.7, the Board **HEREBY ASSESSES** a civil administrative penalty to Respondent in the amount of \$675,000. The Board's rationale for the civil administrative penalty is provided below.

Respondent is **HEREBY NOTIFIED** that pursuant to N.J.A.C. 14:2-6.8, Respondent may request an adjudicatory hearing to contest the AONOCAPA, where Respondent will be provided an opportunity to respond to the charges, submit evidence, and present testimony as may be necessary in order for the Board to make a final determination concerning the charges of unlawful activity. If an adjudicatory hearing is requested and conducted, this AONOCAPA shall become a Final Order upon service on Respondent of a Final Order in the contested case. N.J.A.C. 14:2-6.7(g).

Payment shall be made by check payable to Treasurer, State of New Jersey, and submitted to:

Chief Fiscal Officer  
New Jersey Board of Public Utilities  
Office of Budget and Finance  
44 South Clinton Avenue – 1<sup>st</sup> Floor  
P.O. Box 350  
Trenton, New Jersey 08625-0350  
Attention: One Call Enforcement

### **GENERAL PROVISIONS**

This AONOCAPA is binding on Respondent, its principals, directors, officers, agents, successors, assigns, employees, tenants, any trustee in bankruptcy or other trustee, and any receiver appointed pursuant to a proceeding in law or equity. No obligations imposed by this AONOCAPA are intended to constitute a debt which should be limited or discharged in a bankruptcy proceeding. All obligations are imposed pursuant to the police powers of the State of New Jersey, intended to protect the public health, safety, welfare and the environment.

This AONOCAPA is issued only for the violations identified herein. Any Statutes, rules or permits other than those herein cited may be cause for additional enforcement actions, either administrative or judicial, being instituted. By issuing this AONOCAPA, the Board does not waive its rights to initiate additional enforcement actions. Neither the issuance of this AONOCAPA nor anything contained herein shall relieve Respondent of the obligation to comply with all applicable laws, including but not limited to the statutes and regulations cited herein.

## REQUEST FOR AN ADJUDICATORY HEARING

When requesting an Adjudicatory Hearing to contest the AONOCAPA, Respondent must comply with N.J.A.C. 14:2-6.8 and submit the following information in writing to the Secretary of the Board:

Sherri L. Lewis, Secretary of the Board  
Attention: Adjudicatory Hearing Request/One Call  
Board of Public Utilities  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
PO Box 350  
Trenton, New Jersey 08625-0350

### REQUIRED INFORMATION<sup>5</sup>

1. The name, address and telephone number of the alleged violator and its authorized representative;
2. The alleged violator's defenses, stated in short and plain terms, to each of the Board's preliminary findings of fact contained in the AONOCAPA;
3. An admission or denial of each of the Board's preliminary findings of fact contained in the AONOCAPA. If the alleged violator is without knowledge or information sufficient to form a belief as to the truth of a finding, the alleged violator shall so state and this shall have the effect of a denial. A denial shall fairly meet the substance of the findings denied. When the alleged violator intends, in good faith, to deny only a part of or qualify a finding, the alleged violator shall specify so much of it as true and material and deny only the remainder. The alleged violator may not generally deny all of the findings but shall make all denials as specific denials of designated findings. For each finding denied, the alleged violator shall allege the fact or facts as the alleged violator believes it or them to be;
4. Information supporting the request and specific reference to, or copies of, other written documents relied upon supporting the request;
5. An estimate of the time required for the hearing (in days and/or hours); and
6. A request, if necessary, for a barrier-free hearing location to accommodate physically disabled persons.

### DEADLINE TO REQUEST HEARING

Respondent must file a request for a hearing within **twenty (20) days** after service on Respondent of the AONOCAPA. All adjudicatory hearings shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and N.J.S.A. 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

---

<sup>5</sup> N.J.A.C. 14:2-6.8(a).

If the Board does not receive the hearing request within **twenty (20) days** after service on Respondent of the AONOCAPA being challenged, the Board shall deny the hearing request, and the penalty set forth will be due and owing on the 21st day following service of this AONOCAPA on Respondent, without further notice.

If Respondent fails to include all the information required above, or if upon review of the submission, the Board determines that there is no dispute of material facts, the Board may deny the hearing request. In that case, pursuant to N.J.A.C. 14:2-6.7(f), this AONOCAPA shall become a Final Order, and the penalty in the AONOCAPA shall become due and owing, upon service on Respondent of notice of the hearing request denial.

### **PENALTY CALCULATION**

After a complete review of the record in this matter, including Respondent not contesting the alleged 27 violations of the Act, the Board **HEREBY FINDS** that Respondent failed to file twenty-seven (27) Quarterly Reports with the Board, spanning from July 1, 2018, through March 31, 2025, in violation of N.J.S.A. 48:2-80(c). The Board **FURTHER FINDS** that the BOC investigative findings warrant imposing a penalty of \$25,000 per each Quarterly Report for a total penalty of \$675,000, which the Board has determined as reasonable and appropriate based on the factors set forth at N.J.S.A. 48:2-86 and N.J.A.C. 14:2-6.2(c).

Now, therefore, it is **HEREBY ORDERED** that Respondent:

- a. Cease and desist violating the provisions of Underground Facility Protection Act, N.J.S.A. 48:2-73, et seq.
- b. Pay a penalty in the amount of \$675,000.

The Board **FURTHER ORDERS** that this AONOCAPA be served on Respondent in accordance with N.J.A.C. 1:1-7.2, and should Respondent request an adjudicatory hearing pursuant to N.J.A.C. 14:2-6.8, such request must be made within **twenty (20) days** after service of the AONOCAPA on Respondent, along with the required information provided herein


This Order shall be effective on May 28, 2026.

DATED: May 21, 2026

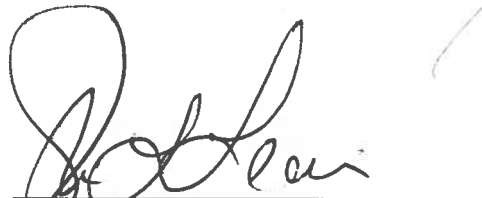
BOARD OF PUBLIC UTILITIES  
BY:



CHRISTINE GUHL-SADOVY  
PRESIDENT

  
DR. ZENON CHRISTODOLOU  
COMMISSIONER  
MICHAEL BANGE  
COMMISSIONER  
EMMA REBHORN  
COMMISSIONER  
JOSEPH COVIELLO  
COMMISSIONER

ATTEST:

  
SHERRI L. LEWIS  
BOARD 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, BY OPTIMUM COMMUNICATIONS INC.

DOCKET NO. CS26050206K

SERVICE LIST

**OPTIMUM COMMUNICATIONS INC.**

Christopher B. Ortiz, Esq.  
Senior Counsel, Government Affairs  
40 Pine St Tinton Falls, NJ 07753  
[Christopher.Ortiz5@optimum.com](mailto:Christopher.Ortiz5@optimum.com)

James H. Laskey, Esq.  
Norris McLaughlin, P.A.  
400 Crossing Boulevard  
8<sup>th</sup> Floor  
Bridgewater, NJ 08807  
[jlaskey@norris-law.com](mailto:jlaskey@norris-law.com)

**NEW JERSEY DIVISION OF LAW**

NJ Department of Law and Public Safety Richard J. Hughes  
Justice Complex  
Public Utilities Section  
25 Market Street – P.O. Box 112  
Trenton, NJ 08625

Pamela Owen, ASC, DAG  
[pamela.owen@law.njoag.gov](mailto:pamela.owen@law.njoag.gov)

Matko Ilic, DAG  
[matko.ilic@law.njoag.gov](mailto:matko.ilic@law.njoag.gov)

Terel Klein, DAG, Section Chief  
[terel.klein@law.njoag.gov](mailto:terel.klein@law.njoag.gov)

Rachel Reckeweg  
[rachel.reckeweg@law.njoag.gov](mailto:rachel.reckeweg@law.njoag.gov)

Tanya Lloyd-Samuel  
[tanya.lloyd-samuel@law.njoag.gov](mailto:tanya.lloyd-samuel@law.njoag.gov)

**BOARD OF PUBLIC UTILITIES**

44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

Sherri L. Lewis, Board Secretary  
[board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

Stacy Peterson, Deputy Executive Director  
[stacy.peterson@bpu.nj.gov](mailto:stacy.peterson@bpu.nj.gov)

Division of Reliability and Security

Francis Gaffney, Director  
[francis.gaffney@bpu.nj.gov](mailto:francis.gaffney@bpu.nj.gov)

Ann Lang  
[Ann.lang@bpu.nj.gov](mailto:Ann.lang@bpu.nj.gov)

Lauren Mattox  
[lauren.mattox@bpu.nj.gov](mailto:lauren.mattox@bpu.nj.gov)

Office of the General Counsel

Ava-Marie Madeam, General Counsel  
[avamarie.madeam@bpu.nj.gov](mailto:avamarie.madeam@bpu.nj.gov)

Elsbeth Hans, Deputy General Counsel  
[elsbeth.hans@bpu.nj.gov](mailto:elsbeth.hans@bpu.nj.gov)

Heather Weisband, Senior Counsel  
[heather.weisband@bpu.nj.gov](mailto:heather.weisband@bpu.nj.gov)