



Agenda Date: 11/21/14  
Agenda Item: VIB

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
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 ET SEQ. )

ORDER ACCEPTING )  
SETTLEMENTS )

DOCKET NOs. WS14101179K et al. )  
(see attached appendix) )

**Parties of Record:**

**Frank Coriano, Manager, Public Service Electric and Gas Company**  
**James Mastrokalos, United Water Company**  
**John Stanziola, Manager, South Jersey Gas Company**

BY THE BOARD<sup>1</sup>:

The Board of Public Utilities ("Board") has jurisdiction to oversee and enforce the provisions of the Underground Facility Protection Act ("the Act") pursuant to the provisions set forth in N.J.S.A. 48:2-73, et seq. The primary purpose of the Act is to establish the One-Call Damage Prevention 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, 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.

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<sup>1</sup> Commissioner Upendra J. Chivukula recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter. Commissioner Dianne Solomon was not present at the 11/21/14 agenda meeting.

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..."

The Act subjects violators of its provisions to civil penalties of not less than \$1,000 and not more than \$2,500 per violation per day, not to exceed \$25,000 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 subject the violator to civil penalties not to exceed \$100,000 per violation per day and not to exceed \$1,000,000 for any related series of violations. In addition, a violator may be assessed the cost of any Board investigation, inspection or monitoring survey which leads to the establishment of a violation and for the reasonable costs of preparing and litigating the matter. N.J.S.A. 48:2-86(b)(2).

Following reports of failure to call the System prior to commencing excavation or demolition activities, failure to hand dig and locate facilities, failure to use reasonable care, or reports of failure to mark out underground facilities or properly mark them, Board Staff contacted the entities listed on the attached Appendix and informed them of the date and location of the alleged violations, also listed on the Appendix.

In an attempt to resolve these matters, each excavator or operator listed on the Appendix has submitted an Offer of Settlement to the Board for its consideration. Each such Offer of Settlement is summarized in the Appendix. The Offers of Settlement were made available to the Board for its review. After consideration of the matters, the Board **HEREBY FINDS** these Offers of Settlement to be reasonable and in the public interest, and **HEREBY ACCEPTS** these Offers of Settlement in full satisfaction of the above referenced alleged violations of the Act.

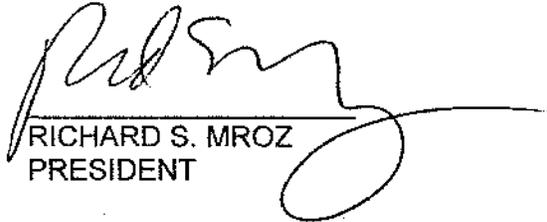
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Underground Facility Protection Act in connection with the above-referenced alleged violations of the Act. It must also be noted that the acceptance of the Offers of Settlement are for settlement purposes only, and apply 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.

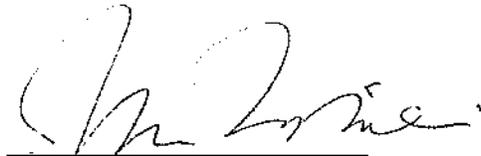
This Order shall be effective on November 30, 2014.

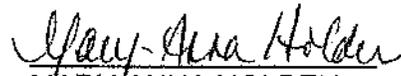
**NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED**

DATED: 11/21/14

BOARD OF PUBLIC UTILITIES  
BY:

  
RICHARD S. MROZ  
PRESIDENT

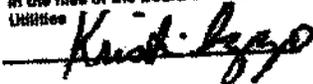
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
MARYANNA HOLDEN  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
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 ET SEQ. ORDER ACCEPTING SETTLEMENTS  
DOCKET NOs. WS14101179K et al. (see attached appendix)**

SERVICE LIST

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James Guiliano, Director  
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Douglas Ziemba, Chief Engineer  
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Board of Public Utilities  
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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-November VIB 2014

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Received
Damage, Water	WS14101179K	WOC2013-0005	Did not properly mark out	\$1,000	United Water		11/23/2013	Paterson Ave, Hasbrouck Heights	9/5/2014
Damage, Gas	GS14101195K	GOC2014-0154	Did not properly mark out	\$3,000	PSE&G		5/2/2014	Rumson Rd, Kendall Park	9/22/2014
Damage, Gas	GS14101196K	NOC2014-0020	Did not properly mark out	\$1,000	PSE&G		6/16/2014	Winding Way, Marlton	9/17/2014
Damage, Gas	GS14101197K	NOC2014-0019	Did not properly mark out	\$1,000	PSE&G		6/24/2014	Winding Way, Marlton	9/17/2014
Damage, Gas	GS14101198K	GOC2014-0239	Did not properly mark out	\$3,000	PSE&G		6/4/2014	Lafayette Ave, Hawthorne	9/22/2014
Damage, Gas	GS14101199K	GOC2014-0135	Did not properly mark out	\$3,000	PSE&G		5/22/2014	Hwy 202, Bridgewater	9/22/2014
Damage, Gas	GS14101200K	GOC2014-0253	Did not properly mark out	\$3,000	PSE&G		6/11/2014	County Rd 613, West Caldwell	9/22/2014
Damage, Gas	GS14101201K	GOC2014-0242	Did not properly mark out	\$3,000	PSE&G		6/6/2014	Buckeye Ln, Willingboro	9/17/2014
Damage, Gas	GS14101207K	GOC2014-0117	Did not have a valid markout	\$3,000		United Water	3/20/2014	Sea Breeze Rd, Toms River	9/26/2014
Damage, Gas	GS14101181K	GOC2014-0110	Did not properly mark out	\$3,000	PSE&G		3/19/2014	Ackerman Ave, Clifton	9/3/2014
Damage, Gas	GS14101169K	GOC2014-0139	Did not properly mark out	\$3,000	South Jersey Gas		5/6/2014	Hwy 47, Middle Township	10/2/2014
Damage, Gas	GS14101174K	GOC2014-0287	Did not properly mark out	\$3,000	South Jersey Gas		6/18/2014	Cincinnati Ave, Egg Harbor	9/18/2014
Non Damage	GS14101173K	GOC2014-0303	Did not properly mark out	\$3,000	South Jersey Gas		6/25/2014	Amherst Ave, Margate	9/19/2014
<b>Total</b>	13			\$33,000					