



Agenda Date: 12/17/14
Agenda Item: VIB

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th 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 ET SEQ.)

ORDER ACCEPTING)
SETTLEMENTS)

DOCKET NOs. GS14111309K et al.)
(see attached appendix))

Parties of Record:

Frank Coriano, Manager, Public Service Electric and Gas Company
Phil Salvatore, Manager, Elizabethtown Gas
John Stanziola, Manager, South Jersey Gas Company

BY THE BOARD¹:

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.

¹ 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.

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.

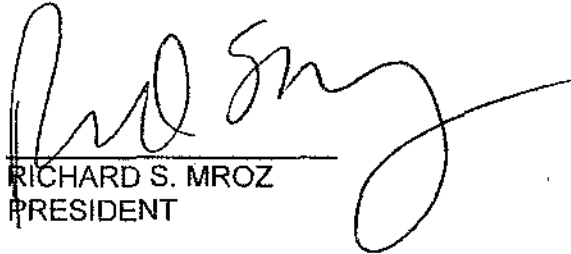
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Underground Facility Protection Act in connection with the above-referenced 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 December 30, 2014.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED

DATED: 12/17/14

BOARD OF PUBLIC UTILITIES
BY:




RICHARD S. MROZ
PRESIDENT



JOSEPH L. FIORDALISO
COMMISSIONER



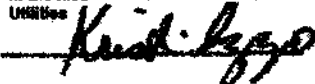
MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
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. DOCKET NOS. GS14111309K et al. (see
attached appendix)**

SERVICE LIST

Frank Coriano
Public Service Electric and Gas Company
410 Silver Lake Rd
Edison, NJ 08817

Phil Salvatore
Elizabethtown Gas
300 Connell Drive, Suite 3000
Berkeley Heights, NJ 07922

John F. Stanziola
Director, Regulatory Affairs
South Jersey Gas Company
1 South Jersey Plaza, Route 54
Folsom, NJ 08037

James Guiliano, Director
Division of Reliability & Security
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Douglas Ziemba, Chief Engineer
Division of Reliability & Security
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James P. Kane, Esq.
Counsel's Office
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
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Trenton, NJ 08625-0350

Geoffrey Gersten, DAG
Division of Law and Public Safety
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029

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-December VIB 2014

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS14111309K	GOC2014-0256	Did not properly mark out	\$3,000	PSE&G		6/12/2014	Oak St, Jersey City	10/8/2014
Damage, Gas	GS14111310K	GOC2014-0267	Did not properly mark out	\$3,000	PSE&G		6/17/2014	18th St, Jersey City	10/8/2014
Damage, Gas	GS14111311K	GOC2014-0252	Did not properly mark out	\$3,000	PSE&G		6/11/2014	Bergenline Ave, Union	10/8/2014
Damage, Gas	GS14111312K	GOC2014-0251	Did not properly mark out	\$3,000	PSE&G		6/11/2014	River Rd, Piscataway	10/8/2014
Damage, Gas	GS14111313K	GOC2014-0069	Did not properly mark out	\$3,000	PSE&G		3/11/2014	Washington Rd, Sayerville	10/13/2014
Damage, Gas	GS14111314K	GOC2014-0282	Did not properly mark out	\$3,000	PSE&G		6/21/2014	Rt 18, East Brunswick	10/13/2014
Damage, Gas	GS14111315K	GOC2014-0268	Did not properly mark out	\$3,000	PSE&G		6/17/2014	Runnymede Rd, Chatham	9/23/2014
Damage, Gas	GS14111316K	GOC2014-0244	Did not properly mark out	\$3,000	PSE&G		6/6/2014	Clinton Ave, Maplewood	10/15/2014
Damage, Gas	GS14111317K	GOC2014-0236	Did not properly mark out	\$3,000	PSE&G		6/3/2014	McNab Ave, Cedar Knolls	9/19/2014
Damage, Gas	GS14111318K	GOC2014-0090	Did not properly mark out	\$3,000	Elizabethtown Gas		3/11/2014	College View Dr, Hackettstown	10/23/2014
Damage, Gas	GS14111319K	GOC2014-0187	Did not properly mark out	\$3,000	Elizabethtown Gas		6/3/2014	Sanford Ave, Hillside	10/23/2014
Damage, Gas	GS14111321K	GOC2014-0574	Did not properly mark out	\$3,000	South Jersey Gas		8/12/2014	New St. & Baldwin Rd, Glassboro	10/22/2014
Damage, Gas	GS14111322K	GOC2014-0564	Did not properly mark out	\$3,000	South Jersey Gas		8/6/2014	Iona Ave, Pennsgrove	10/14/2014
Damage, Gas	GS14111323K	GOC2014-0568	Did not properly mark out	\$3,000	South Jersey Gas		8/7/2014	Vernon Ave, Linwood	10/22/2014
Damage, Gas	GS14111320K	GOC2014-0189	Did not properly mark out	\$3,000	Elizabethtown Gas		6/4/2014	Quinton Ave, Kenilworth	10/21/2014
Total	15			\$45,000					