



Agenda Date: 5/19/15
Agenda Item: VIA

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.GS15030322K
et al. (see attached appendix)

Parties of Record:

- John Thomas**, M L Ruberton Construction
- Craig Lynch**, New Jersey Natural Gas
- Robert Bentz**, Land-Tech Enterprises, INC.
- Charles Hotz**, Jasticon, LLC.
- Tony DeAlmeida**, C&S Foundations, INC.
- Shane Campbell**, S.G.C. Electric Co.
- Chris Royer**, Admiral Fence
- Charles Roesing**, Vestri Corp.
- Mark Butler**, Butler Landscaping
- Richard Pucci**, Pucci & Associates
- Jason Manning**, Statewide Fence
- Mark Pellegrino**, Ace Land Design, LLC.
- Carl Gallina**, Mazzara Trucking
- James Mahon**, Township of Hamilton
- Gene O'Dell**, Allied Contracting
- Frank Moritz**, Ridgewood Water
- Sergio Panunzio**, Union Township

BY THE BOARD:

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.

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 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** the Offers of Settlement to be reasonable and in the public interest, and **HEREBY ACCEPTS** the Offers of Settlement in full satisfaction of the above referenced alleged violations of the Act.

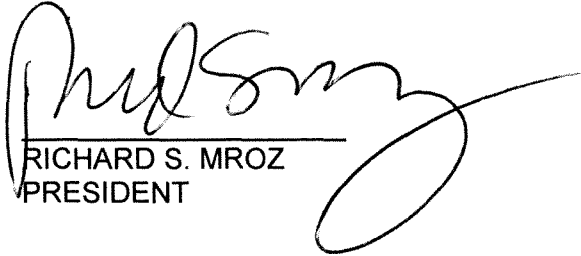
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Underground Facility Protection Act in connection with the above-referenced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

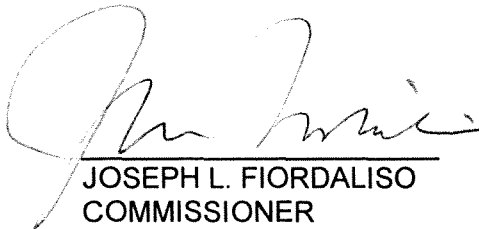
This Order shall be effective on May 31, 2015.

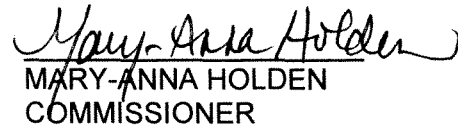
NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED

DATED: *May 19, 2015*

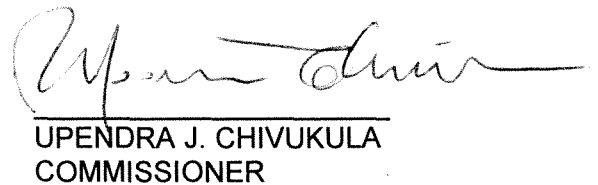
BOARD OF PUBLIC UTILITIES
BY:

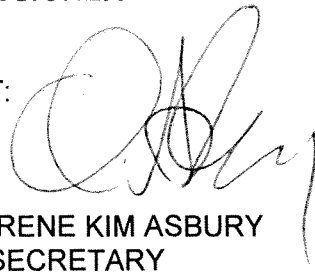

RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER

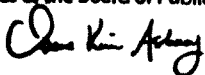

MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST: 
IRENE KIM ASBURY
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 NO. GS15030322K et al. (see attached appendix)**

SERVICE LIST

John Tomas
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Wrightstown, NJ 08562

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Allied Contracting
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Ridgewood Water
131 North Maple Ave.
Ridgewood, NJ 07451

Sergio Panunzio
Union Township
1 Swanstrom Place West
Union, NJ 07083

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-May VIA 2015

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS15030322K	GOC2012-0029	Did not have a valid markout	\$3,000		M L Ruberton Construction	8/22/2012	Rt. 46 & Water Loo Valley Rd., Netcong	2/6/2015
Non Damage	GS15030324K	GOC2014-0136	Did not properly mark out	\$3,000	NJ Natural Gas		5/28/2014	Compass Ave., Beachwood	2/4/2015
Damage, Gas	GS15030323K	GOC2014-0488	Did not have a valid markout	\$3,000		Land-Tech Enterprises	7/18/2014	Mainews St., Blackwood	1/30/2015
Damage, Gas	GS15030325K	GOC2014-0765	Did not have a valid markout	\$3,000		NJ Natural Gas	9/9/2014	W. Bayview Dr., Lavallette	2/4/2015
Damage, Gas	GS15030326K	GOC2014-0566	Did not have a valid markout	\$3,000		Jasticon, LLC.	8/6/2014	Corinthian Dr., Stone Harbor	2/10/2015
Damage, Gas	GS15030327K	GOC2014-0870	Did not have a valid markout	\$3,000		C&S Foundations, INC.	9/29/2014	Prospect Ave., West Orange	2/9/2015
Damage, Gas	GS15030328K	GOC2014-1053	Did not have a valid markout	\$3,000		S.G.C. Electric Co.	10/15/2014	E. Partridge Lane, Cherry Hill	2/15/2015
Damage, Cable	CS15030329K	GOC2014-0020	Did not have a valid markout-Non Gas Damage	\$2,000		Jasticon, LLC.	7/11/2014	Rymill Terr., Cherry Hill	2/24/2015
Damage, Gas	GS15030330K	GOC2014-0651	Did not have a valid markout	\$3,000		Admiral Fence	8/19/2014	Williams St., Roselle Park	2/20/2015
Damage, Gas	GS15040431K	GOC2014-0883	Did not have a valid markout	\$3,000		Vestri Corp.	9/16/2014	W. Front St., Keyport	3/22/2015
Damage, Gas	GS15040432K	GOC2014-0886	Did not properly mark out	\$3,000	NJ Natural Gas		9/17/2014	Hickory Rd., Montville	3/11/2015
Damage, Gas	GS15040433K	GOC2014-1246	Did not have a valid markout	\$3,000		Butler Landscaping	11/25/2014	W. River Rd., Rumson	3/25/2015
Damage, Gas	GS15040434K	GOC2014-0978	Did not properly mark out	\$3,000	NJ Natural Gas		10/13/2014	Willow St., Fair Haven	3/25/2015
Damage, Gas	GS15040435K	GOC2014-0976	Did not properly mark out	\$3,000	NJ Natural Gas		10/9/2014	Gait Ln., Colts Neck	3/25/2015
Damage, Gas	GS15040436K	GOC2014-0967	Did not properly mark out	\$3,000	NJ Natural Gas		10/8/2014	Holiday Rd. & Rt. 35, Ortiey Beach	3/25/2015
Damage, Gas	GS15040437K	GOC2014-0965	Did not properly mark out	\$3,000	NJ Natural Gas		10/6/2014	Unity Rd., Middletown	3/25/2015
Damage, Gas	GS15040438K	GOC2014-0874	Did not have a valid markout	\$3,000		Pucci & Associates	9/29/2014	Burlington-Mt. Holly Rd, Burlington	3/14/2015
Damage, Gas	GS15040439K	GOC2014-1019	Did not have a valid markout	\$3,000		Statewide Fence	10/30/2014	Summit Rd., Mountainside	3/10/2015
Damage, Gas	GS15040440K	GOC2014-1029	Did not have a valid markout	\$3,000		Ace Land Design, LLC.	10/17/2014	Homestead Ave., Haddonfield	3/10/2015
Damage, Electric	ES15040441K	EOC2014-0058	Did not have a valid markout-Non Gas Damage	\$2,000		Mazzara Trucking	5/7/2014	Kimberly Lane, Minotola	3/4/2015
Damage, Gas	GS15040442K	GOC2014-1041	Did not have a valid markout	\$3,000		Township of Hamilton	10/27/2014	Cypress Ln., Hamilton Twp.	3/16/2015
Damage, Gas	GS15040443K	GOC2014-0877	Did not have a valid markout	\$3,000		Allied Contracting	9/30/2014	Anderson Ave., Cliffside Park	2/20/2015
Damage, Gas	GS15040444K	GOC2014-0958	Did not properly mark out	\$3,000	NJ Natural Gas		10/1/2014	Abbott Ave., Neptune	3/4/2015
Damage, Gas	GS15040445K	GOC2014-0983	Did not properly mark out	\$3,000	NJ Natural Gas		10/8/2014	Deeauville Dr., Normandy Beach	3/4/2015
Damage, Gas	GS15040446K	GOC2014-0066	Did not have a valid markout	\$3,000		Ridgewood Water	3/3/2014	Colonial Rd., Midland Park	2/26/2015
Damage, Gas	GS15040447K	GOC2014-0422	Did not have a valid markout	\$3,000		Union Township	7/8/2014	Conant Ave., Union	3/12/2015
Total		26		\$76,000					