



Agenda Date: 06/17/15
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. GS15050594K et al.
) (see attached appendix)

Parties of Record:

Thomas Vassallo, Aquinas Systems, LLC.
Frank Coriano, Manager, Public Service Electric and Gas Company
Phil Salvatore, Manager, Elizabethtown Gas Company
John Hildabrant, Aqua
Bernard Smalls, Manager, Verizon
John F. Stanziola, Manager, South Jersey Gas

BY THE BOARD:¹

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 Commissioners Richard S. Mroz and Upendra J. Chivukula recused themselves 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.

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 June 26, 2015.


NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED

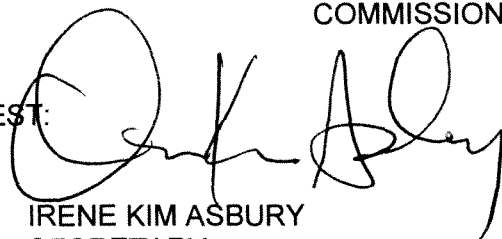
DATED: June 18, 2015

BOARD OF PUBLIC UTILITIES
BY:

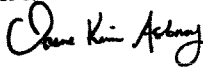

JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
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 NOs. GS15050594K et al. (see attached appendix)**

SERVICE LIST

Thomas Vassallo
Aquinas Systems, LLC.
411 Tudor Terrace
Somers Point, NJ 08244

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

Phil Salvatore
Elizabethtown Gas Company
520 Green Lane
Union, NJ 07083

John Hildabrant
Aqua
10 Black Forest Rd.
Hamilton, NJ 08691

Bernard Smalls
Verizon
540 Broad St.
Newark, NJ 17017

John F. Stanziola
South Jersey Gas
1 South Jersey Plaza
Folsom, NJ 08037

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James P. Kane, Esq.
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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-June VIB 2015

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS15050594K	GOC2014-0824	Did not have a valid markout	\$3,000		Aquinas Systems, LLC.	9/15/2014	Jefferson Ave., Margate	2/25/2015
Damage, Gas	GS15050593K	GOC2014-0278	Did not properly mark out	\$3,000	PSE&G		6/17/2014	Monroe St., City of Orange	4/22/2015
Damage, Gas	GS15050592K	GOC2014-0426	Did not properly mark out	\$3,000	PSE&G		7/18/2014	S. Ridgewood Rd., South Orange	4/22/2015
Damage, Gas	GS15050591K	GOC2014-0455	Did not properly mark out	\$3,000	Elizabethtown Gas		7/17/2014	Diaz St., Iselin	4/21/2015
Non Damage	WS15050583K	NOC2013-0002	Failure to file damage reports	\$3,000	Aqua		4/30/2013	Black Forest Rd., Hamilton	3/19/2015
Non Damage	WS15050584K	NOC2013-0003	Failure to file damage reports	\$3,000	Aqua		7/31/2013	Black Forest Rd., Hamilton	3/19/2015
Non Damage	WS15050585K	NOC2013-0004	Failure to file damage reports	\$3,000	Aqua		10/31/2013	Black Forest Rd., Hamilton	3/19/2015
Non Damage	WS15050586K	NOC2014-0128	Failure to file damage reports	\$3,000	Aqua		1/31/2014	Black Forest Rd., Hamilton	3/19/2015
Non Damage	WS15050587K	NOC2014-0129	Failure to file damage reports- Annual	\$3,000	Aqua		1/31/2014	Black Forest Rd., Hamilton	3/19/2015
Non Damage	WS15050588K	NOC2014-0130	Failure to file damage reports	\$3,000	Aqua		4/30/2014	Black Forest Rd., Hamilton	3/19/2015
Non Damage	WS15050589K	NOC2014-0131	Failure to file damage reports	\$3,000	Aqua		7/31/2014	Black Forest Rd., Hamilton	3/19/2015
Non Damage	WS15050590K	NOC2014-0132	Failure to file damage reports	\$3,000	Aqua		10/31/2014	Black Forest Rd., Hamilton	3/19/2015
Damage, Gas	GS15050582K	GOC2014-0840	Did not properly mark out	\$3,000	Elizabethtown Gas		9/29/2014	Walters Ln., Flemington	4/21/2015
Damage, Gas	GS15050581K	GOC2014-1036	Did not properly mark out	\$3,000	PSE&G		10/24/2014	Ridgedale Ave., Hanover	4/20/2015
Damage, Gas	GS15050567K	GOC2014-0067	Did not have a valid markout	\$3,000		Verizon	3/6/2014	Bound Brook Rd., Dunellen	4/14/2015
Damage, Gas	GS15050566K	GOC2014-0646	Did not properly mark out	\$3,000	PSE&G		8/27/2014	N. Olden Ave., Ewing	4/6/2015
Damage, Gas	GS15050565K	GOC2014-0704	Did not properly mark out	\$3,000	PSE&G		8/19/2014	Paterson Hamburg Tpke, Pompton Lakes	3/3/2015
Damage, Gas	GS15050564K	GOC2014-1058	Did not properly mark out	\$3,000	South Jersey Gas		10/20/2014	Waterview Blvd., Ocean City	3/26/2015
Damage, Gas	GS15050563K	GOC2014-0942	Did not properly mark out	\$3,000	South Jersey Gas		10/9/2014	Spruce St., Penns Grove	3/26/2015
Damage, Gas	GS15050562K	GOC2014-0540	Did not properly mark out	\$3,000	PSE&G		7/15/2014	Capitol Ct., South River	3/18/2015
Damage, Gas	GS15050561K	GOC2014-0595	Did not properly mark out	\$3,000	PSE&G		8/5/2014	Arch St., Ramsey	3/18/2015
Damage, Gas	GS15050560K	GOC2014-0585	Did not properly mark out	\$3,000	PSE&G		7/29/2014	State St., Hackensack	3/18/2015
Total	22			\$66,000					