

Agenda Date: 07/22/15
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. ES15060701K et al.**
) **(see attached appendix)**

Parties of Record:

Frank Coriano, Manager, Public Service Electric and Gas Company
John F. Stanziola, Manager, South Jersey Gas
Bernard Smalls, Verizon
Kevin Connelly, Jersey Central Power and Light
Tom Shroba, NJ American Water
Phil Salvatore, Manager, Elizabethtown Gas Company

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 President Richard S. Mroz and Commissioner 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 August 1, 2015.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED

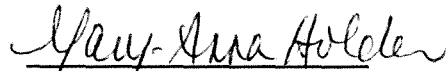
DATED:

July 23, 2015

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
COMMISSIONER

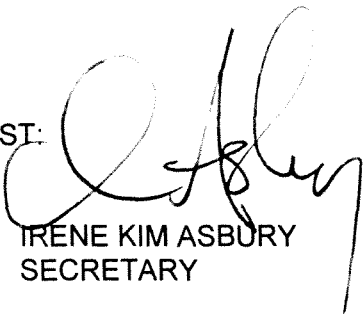


MARY-ANNA HOLDEN
COMMISSIONER



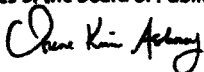
DIANNE SOLOMON
COMMISSIONER

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. ES15060701K et al. (see attached appendix)**

SERVICE LIST

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

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

Bernard Smalls
Verizon
540 Broad St.
Newark, NJ 17017

Kevin Connelly
Jersey Central Power and Light
300 Madison Ave.
Morristown, NJ 07962

Tom Shroba
NJ American Water
1341 North Ave.
Plainfield, NJ 07062

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

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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-July VIB 2015

| Damage Type | BPU Dkt No. | One Call Case No. | Type of Violation | Penalty | Operator | Excavator | Violation Date | Description/Location | Payment Received |
|-------------------|-------------|-------------------|------------------------------|----------|-------------------|-----------|----------------|--|------------------|
| Damage, Electric | ES15060701K | EOC2014-0091 | Did not properly mark out | \$2,000 | PSE&G | | 6/14/2014 | Ashley Ct., Moorestown | 5/11/2015 |
| Damage, Gas | ES15060700K | GOC2014-0863 | Did not properly mark out | \$3,000 | PSE&G | | 9/23/2014 | Deer Run, Princeton | 5/11/2015 |
| Damage, Electric | ES15060702K | EOC2014-0092 | Did not properly mark out | \$2,000 | PSE&G | | 6/16/2014 | Carver Ln., Trenton | 5/11/2015 |
| Damage, Electric | ES15060703K | EOC2014-0068 | Did not properly mark out | \$2,000 | PSE&G | | 4/7/2014 | Central Ave., East Orange | 5/11/2015 |
| Damage, Gas | GS15060704K | GOC2015-0061 | Did not properly mark out | \$3,000 | South Jersey Gas | | 1/16/2015 | Wesley Ave., Ocean City | 5/6/2015 |
| Damage, Gas | GS15060705K | GOC2014-1009 | Did not properly mark out | \$3,000 | PSE&G | | 10/20/2014 | Romney Rd., Bound Brook | 4/22/2015 |
| Non Damage | TS15060706K | NOC2014-0102 | Did not properly mark out | \$1,000 | Verizon | | 11/3/2014 | 1st St., Fair Lawn | 5/5/2015 |
| Damage, Telephone | TS15060707K | TOC2014-0036 | Did not properly mark out | \$2,000 | Verizon | | 7/2/2014 | Meadowbrook Rd., Randolph | 5/5/2015 |
| Damage, Electric | ES15060708K | EOC2014-0112 | Did not properly mark out | \$2,000 | JCP&L | | 8/6/2014 | Crooks Cross Rd, Pittstown | 5/12/2015 |
| Non Damage | GS15060714K | NOC2015-0013 | Failed to report Gas Damage | \$3,000 | South Jersey Gas | | 3/30/2015 | Delaware Ave. & Reading Ave., Cape May | 5/12/2015 |
| Damage, Water | WS15060709K | WOC2013-0007 | Did not properly mark out | \$2,000 | NJ American Water | | 10/29/2013 | N. Warwick Rd., Somerdale | 5/14/2015 |
| Damage, Water | WS15060710K | WOC2013-0006 | Did not properly mark out | \$2,000 | NJ American Water | | 11/5/2013 | Pemberton Browns Mills Rd, Pemberton | 5/14/2015 |
| Non Damage | GS15060713K | NOC2015-0007 | Failed to report Gas Damage | \$3,000 | South Jersey Gas | | 3/30/2015 | Ocean St. & Hughes St., Cape May | 5/12/2015 |
| Damage, Gas | GS15060711K | GOC2015-0028 | Did not properly mark out | \$3,000 | South Jersey Gas | | 1/9/2015 | Shunpike Rd., Lower Twp. | 5/18/2015 |
| Damage, Gas | GS15060712K | GOC2014-0192 | Did not properly mark out | \$3,000 | South Jersey Gas | | 6/2/2014 | S. Ocean Ave., Atlantic City | 5/18/2015 |
| Damage, Gas | GS15060697K | GOC2014-0191 | Did not properly mark out | \$3,000 | Elizabethtown Gas | | 6/14/2014 | Wilder St., Hillside | 5/19/2015 |
| Damage, Telephone | TS15060698K | TOC2014-0023 | Did not have a valid markout | \$2,000 | | PSE&G | 3/5/2014 | Ellison St., Paterson | 5/6/2015 |
| Damage, Telephone | TS15060699K | TOC2013-0005 | Did not properly mark out | \$2,000 | Verizon | | 10/4/2013 | Glen Rd., Randolph | 6/2/2015 |
| Total | | 18 | | \$43,000 | | | | | |