



Agenda Date: 10/15/15
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.GS15091061K)
et al. (see attached appendix)

Parties of Record:

- Charley Oliveira**, CPD Quality Construction
- Mark McCollum**, Walt McCullom
- Laura Bianchini**, Almasi Contractors
- Craig Lynch**, NJ Natural Gas
- Paul Marich**, BTM Construction
- Thomas Taylor**, Henkels & McCoy, Inc.
- Luciano Porchetta**, Lou Porchetta, Inc.
- John McLaughlin**, O'Connor Landscaping
- Eric Davis**, GWS Contractors
- Gary Giglio**, Charles Maradino
- Thomas Nicastro**, Borough of Manasquan
- Milton Nicholas**, Kline Construction

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..." N.J.S.A. 48:2-75.

The Act subjects violators of its provisions to civil penalties of not less than \$1,000.00 and not more than \$2,500.00 per violation per day, not to exceed \$25,000.00 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 \$100,000.00 per violation per day and not to exceed \$1,000,000.00 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 October 25, 2015.

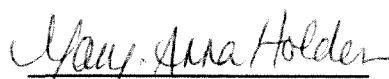
NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

DATED: *October 15, 2015*

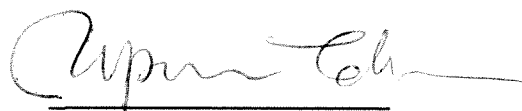
BOARD OF PUBLIC UTILITIES
BY:


RICHARD S. MROZ
PRESIDENT

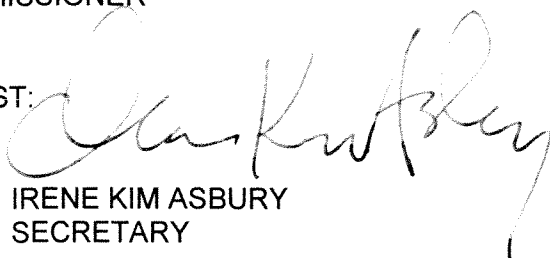

JOSEPH L. FIORDALISO
COMMISSIONER


MARYANNA HOLDEN
COMMISSIONER

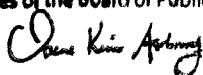

DIANNE SOLOMON
COMMISSIONER


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. GS15091061K et al. (see attached appendix)**

SERVICE LIST

Charley Oliveira
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Paul Marich
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Greenwich, NJ 08323

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512 Elbow Lane
Burlington, NJ 08016

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Jamesburg, NJ 08831

Gary Giglio
Charles Maradino
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Thomas Nicastro
Borough of Manasquan
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Manasquan, NJ 08736

Milton Nicholas
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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-October 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	GS15091061K	GOC2014-1092	Did not have a valid markout	\$3,000		CPD Quality Construction	10/17/2014	Leslie Ave, Brielle	9/2/2015
Damage, Gas	GS15091062K	GOC2015-0079	Did not have a valid markout	\$3,000		Wait McCollum	1/20/2015	Matilda Dr, Manahawkin	8/5/2015
Damage, Gas	GS15091063K	GOC2015-0206	Did not have a valid markout	\$3,000		Almasi Contractors	3/30/2015	Red Hill Rd, Middletown	8/27/2015
Damage, Gas	GS15091064K	GOC2015-0103	Did not properly mark out	\$3,000	NJ Natural Gas		2/4/2015	Bay Ave, Beach Haven	7/14/2015
Damage, Gas	GS15091065K	GOC2014-0912	Did not properly mark out	\$3,000	NJ Natural Gas		9/24/2014	Raritan Dr, Little Egg Harbor	7/14/2015
Damage, Gas	GS15091067K	GOC2014-0943	Did not have a valid markout	\$3,000		BTM Construction	10/9/2014	Almond Rd, Pittsgrove	8/1/2015
Damage, Telephone	TS15091068K	TOC2015-0003	Did not have a valid markout, non-gas damage	\$2,000		Henkels & McCoy	12/6/2014	Parkway Ave, Ewing	8/18/2015
Damage, Electric	ES15091066K	EOC2014-0169	Did not have a valid markout, non-gas damage	\$2,000		Lou Porchetta	9/3/2014	Unami Ln, Scotch Plains	8/13/2015
Damage, Gas	GS15091069K	GOC2015-0003	Did not properly mark out	\$3,000	NJ Natural Gas		1/6/2015	Dune Way, Lavallette	8/25/2015
Damage, Gas	GS15091070K	GOC2014-0578	Did not have a valid markout	\$3,000		O'Connor Landscaping	8/14/2014	Central Ave, Sea Isle City	8/10/2015
Damage, Gas	GS15091071K	GOC2014-0998	Did not have a valid markout	\$3,000		GWS Contractors	10/14/2014	Regent Ct, Edison	7/23/2015
Damage, Gas	GS15091072K	GOC2014-0739	Did not have a valid markout	\$3,000		Charles Maradino	9/10/2014	Oxford Ave, Ventnor City	7/30/2015
Damage, Gas	GS15091073K	GOC2014-0320	Did not have a valid markout	\$3,000		Borough of Manasquan	6/18/2014	Iroquois Rd, Manasquan	9/1/2015
Damage, Electric	ES15091074K	EOC2014-0115	Did not have a valid markout, non-gas damage	\$2,000		Kline	8/8/2014	Masters Dr, Monroe	9/3/2015
Total		14		\$39,000					