



Agenda Date: 10/15/15  
Agenda Item: VIB

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://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. )  
)  
) DOCKET NOs. GS15091044K et al.  
) (see attached appendix)

**Parties of Record:**

**Frank Coriano, Manager**, Public Service Electric and Gas Company  
**Richard Tecchio**, United Water  
**John F. Stanzola, Manager**, South Jersey Gas  
**Ralph Hillmer**, Jersey Central Power and Light

BY THE BOARD:<sup>1</sup>

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.

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<sup>1</sup> 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..." 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.

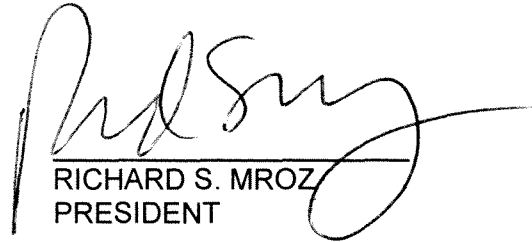
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Underground Facility Protection Act in connection with the above-referenced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

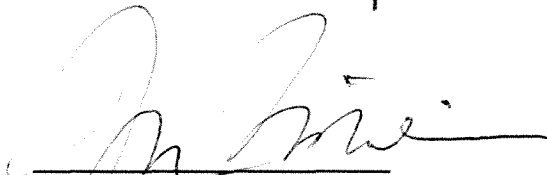
This Order shall be effective on October 25, 2015.

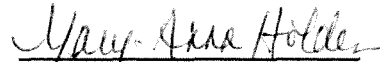
**NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.**

DATED: *October 15, 2015*

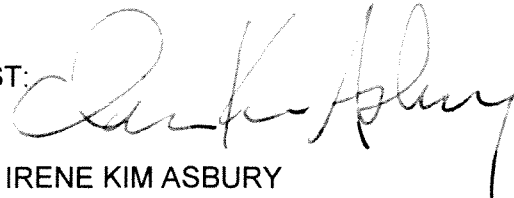
BOARD OF PUBLIC UTILITIES  
BY:

  
RICHARD S. MROZ  
PRESIDENT

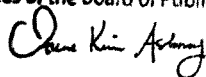
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
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. GS15091044K et al. (see attached appendix)**

**SERVICE LIST**

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

Richard Tecchio  
United Water  
60 DeVoe Place  
Hackensack, NJ 07601

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

Ralph Hillmer  
Jersey Central Power and Light  
300 Madison Avenue  
Morristown, NJ 07962

James Giuliano, Director  
Division of Reliability & Security  
Board of Public Utilities  
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James P. Kane, Esq.  
Counsel's Office  
Board of Public Utilities  
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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-October 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	GS15091044K	GOC2015-0109	Did not properly mark out	\$3,000	PSE&G		2/18/2015	Walnut St, Montclair	7/27/2015
Damage, Gas	GS15091043K	GOC2015-0036	Did not properly mark out	\$3,000	PSE&G		1/14/2015	Brown St, Nutley	7/22/2015
Damage, Gas	GS15091042K	GOC2015-0049	Did not properly mark out	\$3,000	PSE&G		1/26/2015	Brookfall Rd & Ryan Rd, Edison	7/27/2015
Non Damage	GS15091041K	NOC2015-0041	Did not have a valid markout, evacuation, road closure	\$6,000		PSE&G	5/12/2015	Pulaski St, Bayonne	8/10/2015
Damage, Gas	GS15091040K	GOC2014-0641	Did not have a valid markout	\$3,000		United Water	8/25/2014	Atlantic St, Jersey City	8/17/2015
Damage, Gas	GS15091039K	GOC2014-0945	Did not properly mark out	\$3,000	South Jersey Gas		10/10/2014	Middlesex Ave, Voorhees	7/27/2015
Damage, Electric	ES15091038K	EOC2014-0120	Did not properly mark out, non gas damage	\$2,000	JCP&L		8/27/2014	Ingersoll Rd, Marlboro	8/11/2015
Damage, Gas	GS15091037K	GOC2015-0065	Did not properly mark out	\$3,000	South Jersey Gas		1/22/2015	W Brooke Ave, Magnolia	8/4/2015
Non Damage	GS15091035K	NOC2015-0064	Failed to report Gas Damage	\$3,000	PSE&G		6/4/2015	Forest St, Kearny	7/24/2015
Non Damage	GS15091036K	NOC2015-0002	Failed to report Gas Damage	\$3,000	PSE&G		3/16/2015	Forestal Rd, Princeton	7/24/2015
<b>Total</b>	10			\$32,000					