



Agenda Date: 10/31/16
Agenda Item: VIA

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
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. GS16090829K, et. al.
) (see attached appendix)

Parties of Record:

- Frank Coriano**, Public Service Electric and Gas
- William Tappin**, South Jersey Gas
- Ralph Hillmer**, Jersey Central Power & Light
- Nick Depoto**, Elizabethtown Gas
- Maria Diaz**, New Jersey Natural Gas
- David J. Smith**, Dave's Electric
- Lior Oshri**, Deshe Landscaping and Construction
- Steven Filippone**, Engineering Design Assoc.
- Joseph Zargo**, S. Batata Construction
- Robert Lore**, pro se
- David Keyes**, Dawkcorp INC
- Joao Tavares**, JP Plumbing and Heating
- Walter Danley**, Walter Danley Electrical Contractor
- Kevin Dulio**, Native Fields Landscaping
- David Phillips**, Sun Up Zero Down Solar
- Michael Aliano**, Aliano Brothers
- Mark Culicha**, Toll Brothers Landscaping
- Peter Englishman**, Peter Englishman & Sons

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. N.J.S.A. 48:2-86(c). 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.

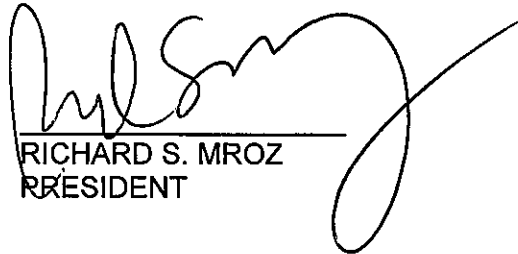
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Underground Facility Protection Act in connection with the above-referenced 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 November 10, 2016.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

DATED: 10/31/16

BOARD OF PUBLIC UTILITIES
BY:



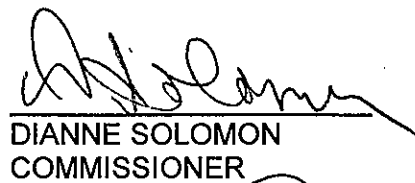
RICHARD S. MROZ
PRESIDENT



JOSEPH L. FIORDALISO
COMMISSIONER



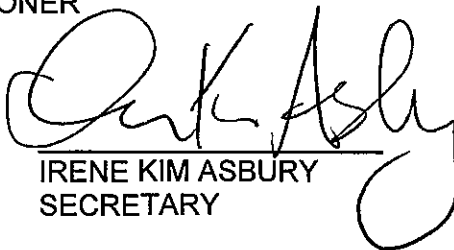
MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER

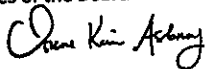


UPENDRA J. CHIVUKULA
COMMISSIONER

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. GS16090829K et. al. (see attached appendix)**

SERVICE LIST

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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 2016

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage Gas	GS16090829K	GOC2015-0117	Did not have a valid markout	\$3,000		Dave's Electric	2/24/2015	Long Beach Blvd., Brant Beach	8/17/2016
Damage Gas	GS16090830K	GOC2015-1643	Did not properly mark out	\$3,000	PSE&G		10/31/2015	Bergenline Ave., North Bergen	8/17/2016
Damage Gas	GS16090831K	GOC2015-1799	Did not have a valid markout	\$3,000		Deshe Landscaping and Construction	12/7/2015	Lamberts Mill Rd., Scotch Plains	8/8/2016
Damage Gas	GS16090832K	GOC2015-1690	Did not have a valid markout	\$3,000		Engineering Design Assoc.	11/12/2015	Ocean Heights Ave., Egg Harbor Twp.	7/8/2016
Damage Gas	GS16090833K	GOC2015-1200	Did not properly mark out	\$3,000	PSE&G		8/25/2015	Clinton Rd., West Caldwell	8/3/2016
Damage Gas	GS16090834K	GOC2015-1201	Did not properly mark out	\$3,000	PSE&G		8/25/2015	Bear Brook Ln., Livingston	8/3/2016
Damage Gas	GS16090838K	GOC2015-1668	Did not properly mark out	\$3,000	PSE&G		11/4/2015	Stonehill Rd., South Orange	8/3/2016
Damage Gas	GS16090839K	GOC2015-1747	Did not properly mark out	\$3,000	PSE&G		11/24/2015	Laurel Ave., West Orange	8/3/2016
Damage Gas	GS16090840K	GOC2015-1523	Did not have a valid markout	\$3,000		S. Batata Construction	10/8/2015	Crestview Ct., Howell	7/20/2016
Damage Gas	GS16090841K	GOC2016-0290	Did not properly mark out	\$3,000	SJG		3/30/2016	Landis Ave., Sea Isle City	7/26/2016
Damage Gas	GS16090842K	GOC2015-1837	Did not properly mark out	\$3,000	NJNG		12/10/2015	W 14th St., Ship Bottom	5/26/2016
Damage Gas	GS16090843K	GOC2016-0015	Did not have a valid markout	\$3,000		Robert Lore	1/9/2016	Landis Ave., Vineland	8/2/2016
Damage Gas	GS16090847K	GOC2016-0058	Did not have a valid markout	\$3,000		Dawkcopp INC	2/1/2016	18th Ave., Lake Como	7/18/2016
Damage Gas	GS16090848K	GOC2015-1651	Did not properly mark out	\$3,000	PSE&G		11/6/2015	Disbrow Hill Rd., Monroe	7/21/2016
Damage Gas	GS16090849K	GOC2015-0998	Did not properly mark out	\$3,000	Elizabethtown Gas		7/25/2015	Longfellow St., Carteret	7/12/2016
Damage Gas	GS16090850K	GOC2015-1188	Did not properly mark out	\$3,000	Elizabethtown Gas		8/27/2015	W Scott Ave., Rahway	7/12/2016
Damage Gas	GS16090851K	GOC2016-0116	Did not properly mark out	\$3,000	PSE&G		2/11/2016	Oak Tree Ln., Little Falls	7/22/2016
Damage Gas	GS16090852K	GOC2015-1647	Did not have a valid markout	\$3,000		JP Plumbing and Heating	11/3/2015	Hudson Sve., Secaucus	6/9/2016
Damage Gas	GS16090904K	GOC2015-1764	Did not have a valid markout	\$3,000		Walter Danley Electrical Contractor	11/24/2015	Almar Rd., Tinton Falls	6/8/2016
Damage Gas	GS16090905K	GOC2015-1551	Did not properly mark out	\$3,000	PSE&G		10/9/2015	7th St., Riverton	4/1/2016
Damage Gas	GS16090906K	GOC2015-0793	Failure to hand dig and locate	\$3,000		PSE&G (E)	6/30/2015	Rahway Ave., Woodbridge	6/8/2016
Damage Gas	GS16090874K	GOC2015-1594	Did not have a valid markout	\$3,000		Native Fields Landscaping	10/21/2015	Sycamore Ln., Randolph	6/27/2016
Damage Gas	GS16090875K	GOC2015-1506	Did not properly mark out	\$3,000	PSE&G		10/1/2015	Grand Ave., River Edge	6/17/2016
Damage Gas	GS16090894K	GOC2015-1483	Did not have a valid markout	\$3,000		Sun Up Zero Down Solar	10/5/2015	Mays Landing, Folsom	6/20/2016
Damage Gas	GS16090895K	GOC2015-0590	Did not have a valid markout	\$3,000		Alfano Brothers	5/15/2015	Atlantic Ave., Wildwood Crest	6/24/2016
Damage Gas	GS16090896K	GOC2015-0717	Did not have a valid markout	\$3,000		Toll Brothers Landscaping	6/3/2015	Sunset Dr., Tinton Falls	6/24/2016
Damage Gas	GS16090897K	GOC2015-1874	Did not have a valid markout	\$3,000		Peter Englishman & Sons	12/8/2015	Mill Rd. Ext., Woodcliff Lake	6/27/2016
Total		27		\$81,000					