



Agenda Date: 3/18/15
Agenda Item: 6C

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 ALLEGATIONS OF) ORDER
VIOLATIONS OF THE UNDERGROUND FACILITY)
PROTECTION ACT REGARDING PUBLIC)
SERVICE ELECTRIC AND GAS COMPANY'S)
COMPLIANCE WITH CERTAIN UNDERGROUND)
FACILITY PROTECTION ACT REGULATIONS AND)
PRIOR ONE CALL BOARD ORDERS) DOCKET NO. GS15020142K

Party of Record:

Alexander Stern, Esq., Public Service Electric and Gas Company

BY THE BOARD¹:

This matter has been opened to the Board of Public Utilities ("Board") following an investigation by the Board's Bureaus of Pipeline Safety ("BPS") and One Call ("BOC") (collectively "Board Staff") of a natural gas incident that occurred on March 4, 2014 at the South Fork townhouse development on Crockett Lane in Ewing, New Jersey. Board Staff conducted a detailed and comprehensive investigation which included a review of the circumstances surrounding the incident as well as Henkels & McCoy, Inc.'s ("H&M") and Public Service Electric and Gas Company's ("PSE&G") procedures and actions. Based on this investigation, it was determined that a build-up of natural gas accumulated in at least one of the townhouse units located at 24, 26, and 28 Crockett Lane, and ignited. The subsequent explosion and fire destroyed the three townhouse units and damaged approximately 52 additional units. The source of the ignition could not be determined. The explosion and fire caused one fatality of a townhouse resident and injured seven employees of the operator, PSE&G, and three employees of the excavator H&M.

In the course of its investigation of the March 4, 2014 explosion and fire, BOC developed concerns regarding PSE&G's compliance with certain Underground Facility Protection Act ("UFPA"), N.J.S.A. 48:2-73, et seq. regulations related to the distinction between emergency

¹ 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.

and nonemergency markout notification procedures that it considered "non-causal" issues as they did not directly relate to the Ewing incident.

BOC advised PSE&G that it had found certain probable violations of applicable laws relating to the distinction between emergency and nonemergency markout notification procedures.

PSE&G contested certain facts and conclusions relating to Board Staff's determinations that probable violations of law existed. PSE&G and Board Staff engaged in settlement discussions pertaining to the identified probable violations. On February 17, 2015, PSE&G and Board Staff entered into a Stipulation and Settlement Agreement ("Stipulation") which, among other things, provides for a one-time payment to the Treasurer of the State of New Jersey in the amount of Two Hundred Seventy-Five Thousand Dollars (\$275,000). As part of the Stipulation, PSE&G did not admit any wrongdoing nor violation of any law or regulation.

In addition to the \$275,000 payment amount referenced above, PSE&G agreed to amend its procedures where alleged compliance violations were identified with UFPA regulations related to the distinction between emergency and nonemergency markout notification within six months of a Board order approving the Stipulation.

Each Party agrees that this Stipulation represents a fair and reasonable settlement of all issues that were, or could have been, raised in regard to the identified issues or the BOC's subsequent investigation.

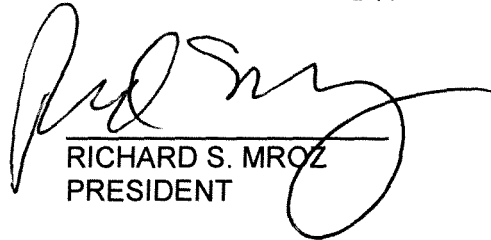
The Board reviewed the Stipulation and **HEREBY FINDS** it to be a reasonable settlement of the outstanding issues, in the public interest, in accordance with law and in accordance with the intent and purpose of the Natural Gas Pipeline Safety Act of 1968 as amended, 49 U.S.C.A. § 1671, et seq. and all regulations promulgated thereto, the Natural Gas Safety Act, N.J.S.A. 48:10-2, et seq. and all regulations promulgated thereto, N.J.A.C. 14:7, et seq., and the New Jersey Underground Facility Protection Act, N.J.S.A. 48:2-73, et seq., and all regulations promulgated thereto, N.J.A.C. 14:2, et seq. Therefore, the Board **HEREBY APPROVES** and **ADOPTS** the Stipulation as its own, incorporating by reference the terms and conditions therein as if fully set forth at length herein.

The Board **HEREBY ORDERS** PSE&G to comply with the terms of the Stipulation as presented.

This Order shall be effective on March 27, 2015.

DATED: 3/18/15

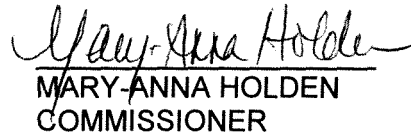
BOARD OF PUBLIC UTILITIES
BY:



RICHARD S. MROZ
PRESIDENT



JOSEPH L. FIORDALISO
COMMISSIONER

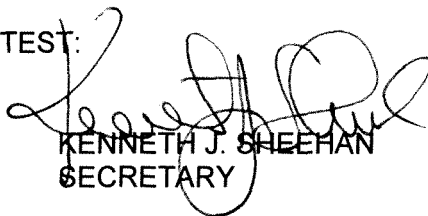


MARY-ANNA HOLDEN
COMMISSIONER



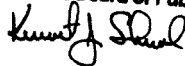
DIANNE SOLOMON
COMMISSIONER

ATTEST:



KENNETH J. SHEEHAN
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 ALLEGATIONS OF VIOLATIONS OF PIPELINE SAFETY
REGULATIONS AND THE UNDERGROUND FACILITY PROTECTION ACT BY PUBLIC
SERVICE ELECTRIC & GAS COMPANY WITH RESPECT TO A GAS PIPELINE INCIDENT IN
EWING, NEW JERSEY ON MARCH 4, 2014

DOCKET NO. GS15020142K

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STIPULATION AND SETTLEMENT
AGREEMENT

Docket No. GS15020142K

This Stipulation and Settlement Agreement (“Stipulation”) is entered into by and between the Staff of the New Jersey Board of Public Utilities and Public Service Electric and Gas Company (“PSE&G” or “Company”) (collectively referred to herein as the “Parties”) as of this **12th** day of February, 2015.

WHEREAS, in the course of its investigation of a March 4, 2014 explosion and fire which occurred at a townhouse complex located at Crockett Lane in Ewing, New Jersey, the Bureau of One Call (“BOC”) of the New Jersey Board of Public Utilities (“the Board”) developed concerns regarding the Company’s compliance with certain Underground Facility Protection Act (“UFPA”) regulations related to the distinction between emergency and non-emergency markout notification procedures that it considered non-causal issues not directly related to the Ewing investigation; and

WHEREAS, the BOC discussed with the Company the possibility of opening a separate investigation of all Company one call activities dating from 2004 to the present to confirm and verify strict compliance with certain UFPA regulations related to the distinction between emergency and non-emergency markout notification procedures; and

WHEREAS, such an investigation would involve and occupy significant resources of the BOC and the Company; and

WHEREAS, the BOC advised PSE&G that it had found certain probable violations of Applicable Laws; and

WHEREAS, in the interests of avoiding undue burden and expense, the Parties have reached an agreement to resolve any and all issues the BOC may have against the Company arising from or related to the concerns it expressed as part of a comprehensive settlement in accordance with the terms of this Stipulation. Each Party agrees that this Stipulation represents a fair and reasonable settlement of all issues that were or could have been raised in regard to the informal issues or the BOC’s subsequent investigation; and

WHEREAS, the resolution of this matter through the adoption of the stipulated positions set forth herein best serves the interests of the Parties, supports judicial economy and

preservation of valuable judicial, administrative and corporate resources, and is therefore, in the public interest.

NOW THEREFORE, the Parties hereby agree as follows:

1. As a compromise of the concerns expressed by BOC, the Company, without any admission of any violation of law or wrongdoing, shall make a one-time payment of Two Hundred and Seventy-Five Thousand Dollars (\$275,000) to the Treasurer of the State of New Jersey. This Stipulation represents a settlement of all claims the Board may have against the Company for the period 2004 to the present regarding concerns about strict compliance with certain regulations related to the distinction between emergency and non-emergency markout notification procedures, excluding any violation relating to an incident which is reportable pursuant to N.J.A.C. 14:2-4.4(h)(1) or results in damage to a third party. No later than thirty (30) days after the date that the Board enters an Order approving this Stipulation, PSE&G will send a check in the amount of Two Hundred and Seventy-Five Thousand Dollars (\$275,000) payable to the Treasurer of the State of New Jersey to Michael Greco, Acting Chief Fiscal Officer, Board of Public Utilities, 44 South Clinton Avenue, 7th Floor, P.O. Box 350, Trenton, New Jersey 08625. A copy of this check shall be provided to Geoffrey Gersten, Deputy General, Department of Law and Public Safety, 124 Halsey Street, 5th Floor, Newark, New Jersey 07102.

2. PSE&G further agrees that it has an ongoing obligation to comply with all prior Board Orders and is subject to appropriate statutory penalties should evidence of incidents of non-compliance dating from the issuance of a Board Order in this matter forward be found and determined after appropriate notice and opportunity to be heard.

3. PSE&G further agrees that it will not seek to recover any portion of the Two Hundred and Seventy-Five Thousand Dollar (\$275,000) payment amount from ratepayers.

4. PSE&G's agreement to pay the foregoing sum is not an acknowledgement of non-compliance with any law, Board Orders, or Board requirements nor is it an admission of any violation of any law, Board Orders, or Board requirements or wrongdoing, and does not constitute any admission of liability. The payment is made as part of a negotiated Stipulation intended to resolve the claims of the respective Parties without further compliance audit or litigation.

5. The Parties agree that the terms of this Stipulation shall not be cited or otherwise used by or against each other or other parties or argued as binding persuasive precedent in this or any other forum, except in any proceeding to enforce the Stipulation or the terms and conditions thereof and/or the Board Order adopting this Stipulation.

6. Should PSE&G default in either paying amounts set forth in Paragraph 1 and 2 above, or in implementing the process improvement measures and other requirements set forth in Paragraph 5 above, the Board shall be entitled to enforce the order pursuant to the Penalty Enforcement Law of 1999 as amended, N.J.S.A. 2A:58-10 et seq. or enter a judgment in the Superior Court of New Jersey, or other appropriate forum against PSE&G and to take such steps

as it deems reasonable to collect the amount due plus interest thereon and to otherwise enforce this Stipulation.

7. After this Stipulation has been fully executed, it shall be presented to the Board for approval.

8. Upon approval of this Stipulation by the Board, it shall then constitute the entire agreement between the Board Staff and PSE&G with respect to this matter and shall operate as complete and final disposition of the BPU docket by the Board subject only to the terms of this Stipulation.

9. This Stipulation may not be amended in any way, or any part of its provisions waived, except by writing executed by all the Parties to this Stipulation. In the event the Board modifies any provision of this Stipulation, absent express written consent of the Parties, the Stipulation shall be void and the Parties shall be restored to their positions prior to the execution of this Stipulation.

10. This Stipulation may be executed in as many counterparts as there are signatures, thereof, each of which shall be original, but all of which shall constitute one and the same instrument. No amendment or waiver of any substantive provision of this Stipulation shall be effective unless it is agreed to by the authorized representative of each party thereto.

11. This Stipulation shall be governed by, and construed in accordance with the laws of the State of New Jersey.

NOW THEREFORE, the Parties cause this Stipulation to be executed by their duly authorized officers or officials.

By: Alexander C. Stern
Alexander C. Stern
Associate General Regulatory Counsel
On behalf of Public Service Electric and Gas Company

Dated: February 17, 2015

John Jay Hoffman, Jr.
Acting Attorney General of New Jersey
Attorney for Board Staff

By: Geoffrey Gersten
Geoffrey Gersten
Deputy Attorney General

Dated: February 17 2015