



Agenda Date: 05/19/15
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. WS15030309K et al.)
) (see attached appendix)

Parties of Record:

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

BY THE BOARD¹:

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..."

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 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** the Offers of Settlement to be reasonable and in the public interest, and **HEREBY ACCEPTS** the 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 waives 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. The acceptance of the Offers of Settlement are for settlement purposes only, and apply strictly to the specific incidents described in the Appendix. The 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 May 31, 2015.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED

DATED: *May 19, 2015*

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
COMMISSIONER

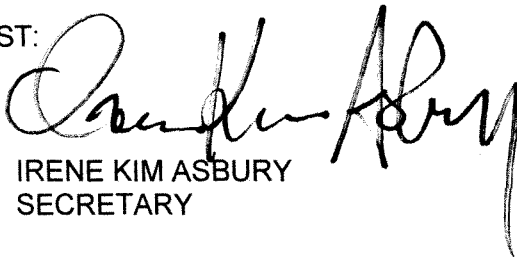


MARY-ANNA HOLDEN
COMMISSIONER



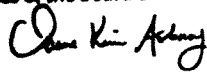
DIANNE SOLOMON
COMMISSIONER

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. WS15030309K et al. (see attached appendix)**

SERVICE LIST

Tom Shroba
New Jersey American Water
1341 North Ave
Plainfield, NJ 07062

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

Bernard Smalls
Verizon
540 Broad St.
Newark, NJ 17017

Phil Salvatore
Elizabethtown Gas Company
300 Connell Drive, Suite 3000
Berkeley Heights, NJ 07922

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

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

James Giuliano, Director
Division of Reliability & Security
Board of Public Utilities
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James P. Kane, Esq.
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Board of Public Utilities
44 South Clinton Avenue, 9th Floor
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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-May VIB 2015

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Water	WS15030309K	WOC2014-0032	Did not properly mark out Non Gas Damage	\$2,000	NJ American Water		6/26/2014	Oceanport Ave., West Long Branch	1/23/2015
Damage, Gas	GS15030332K	GOC2014-0111	Did not properly mark out	\$3,000	PSE&G		3/20/2014	Jefferson St., Ridgewood	2/2/2015
Damage, Telephone	TS15030331K	TOC2014-0033	Did not properly mark out Non Gas Damage	\$2,000	Verizon		4/4/2015	South Orange Ave., Maplewood	1/29/2015
Damage, Gas	GS15030334K	GOC2014-1002	Did not properly mark out	\$3,000	Elizabethtown Gas		10/10/2014	Lawrence Dr., Hackettstown	2/24/2015
Damage, Gas	GS15030333K	GOC2014-0705	Did not properly mark out	\$3,000	PSE&G		8/20/2014	Murray Ave., South Plainfield	1/28/2015
Damage, Gas	GS15030335K	GOC2014-1001	Did not properly mark out	\$3,000	Elizabethtown Gas		10/2/2014	Lawrence Dr., Hackettstown	2/24/2015
Damage, Gas	GS15030336K	GOC2014-1217	Did not properly mark out	\$3,000	Elizabethtown Gas		11/14/2014	Burnet Ave., Union	2/24/2015
Damage, Gas	GS15030337K	GOC2014-0458	Did not properly mark out	\$3,000	Elizabethtown Gas		7/18/2014	Orchard St., Elizabeth	2/24/2015
Non Damage	TS15030338K	NOC2014-0111	Did not properly mark out	\$1,000	Verizon		10/28/2014	Norton Rd., South Brunswick	2/18/2015
Non Damage	GS15030302K	NOC2014-0124	Did not have a valid markout	\$1,000		PSE&G	9/24/2014	Shelly Ln., Delran	2/5/2015
Non Damage	GS15030303K	NOC2014-0125	Did not have a valid markout	\$1,000		PSE&G	9/24/2014	Beaverbrook Rd., Delran	2/5/2015
Damage, Gas	GS15030304K	GOC2014-0525	Did not properly mark out	\$3,000	PSE&G		7/1/2014	Howe Ave., Passaic	2/4/2015
Damage, Gas	GS15030305K	GOC2014-0155	Did not properly mark out	\$3,000	PSE&G		5/2/2014	Mt. Prospect Rd., Clifton	2/4/2015
Damage, Gas	GS15030307K	GOC2014-0175	Did not properly mark out	\$3,000	Elizabethtown Gas		5/21/2014	Lower Rd., Elizabeth	1/27/2015
Damage, Gas	GS15030308K	GOC2014-0177	Did not properly mark out	\$3,000	Elizabethtown Gas		5/23/2014	Hurden St., Hillside	1/27/2015
Non Damage	TS15030309K	NOC2014-0092	Did not have a valid markout/Emergency	\$2,000		Verizon	10/21/2014	Burlington-Bordentown Rd., Florence	1/16/2015
Non Damage	TS15030311K	NOC2014-0093	Did not properly mark out	\$1,000	Verizon		10/17/2014	Main St., Holmdel	1/16/2015
Damage, Gas	GS15030312K	GOC2014-0309	Did not properly mark out	\$3,000	Elizabethtown Gas		6/16/2014	Magnolia Ave., Elizabeth	1/27/2015
Damage, Gas	GS15030313K	GOC2014-0311	Did not properly mark out	\$3,000	Elizabethtown Gas		6/18/2014	Mary St., Carteret	1/27/2015
Non Damage	TS15030316K	NOC2012-0003	Did not have a valid markout-Maximum Penalty	\$2,500		Verizon	2/10/2012	Summerhill Rd., East Brunswick	1/22/2015
Non Damage	TS15030315K	NOC2012-0002	Did not have a valid markout-Maximum Penalty	\$2,500		Verizon	2/10/2012	Summerhill Rd., East Brunswick	1/22/2015
Non Damage	TS15030314K	NOC2012-0001	Did not have a valid markout-Maximum Penalty	\$2,500		Verizon	2/10/2012	Summerhill Rd., East Brunswick	1/22/2015
Non Damage	TS15030318K	NOC2012-0005	Did not have a valid markout-Maximum Penalty	\$2,500		Verizon	2/10/2012	Summerhill Rd., East Brunswick	1/22/2015
Non Damage	TS15030317K	NOC2012-0004	Did not have a valid markout-Maximum Penalty	\$2,500		Verizon	2/10/2012	Summerhill Rd., East Brunswick	1/22/2015
Non Damage	TS15030319K	NOC2012-0006	Did not have a valid markout-Maximum Penalty	\$2,500		Verizon	2/10/2012	Summerhill Rd., East Brunswick	1/22/2015

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS15040452K	GOC2014-0620	Did not properly mark out	\$3,000	PSE&G		8/20/2014	Rt. 34, Old Bridge	3/9/2015
Damage, Gas	GS15040453K	GOC2014-0627	Did not properly mark out	\$3,000	PSE&G		8/10/2014	Sara Dr., Robbinsville	3/9/2015
Damage, Gas	GS15040454K	GOC2014-0871	Did not properly mark out	\$3,000	PSE&G		9/29/2014	Masters Dr., Monroe Twp.	3/2/2015
Damage, Gas	GS15040455K	GOC2014-1043	Did not properly mark out	\$3,000	PSE&G		10/29/2014	Great Hills Rd., Millburn Twp.	3/4/2015
Damage, Gas	GS15040456K	GOC2014-1035	Did not properly mark out	\$3,000	PSE&G		10/24/2014	Walker St., Cliffside Park	3/4/2015
Damage, Gas	GS15040457K	GOC2014-0640	Did not properly mark out	\$3,000	PSE&G		8/25/2014	Broadway, Newark	3/4/2015
Damage, Gas	GS15040458K	GOC2014-1057	Did not properly mark out	\$3,000	South Jersey Gas		10/17/2014	85th St., Sea Isle	3/11/2015
Damage, Gas	GS15040459K	GOC2014-0826	Did not properly mark out	\$3,000	South Jersey Gas		9/16/2014	South Reed Ave., Galloway	3/11/2015
Damage, Gas	GS15040460K	GOC2014-1059	Did not properly mark out	\$3,000	South Jersey Gas		10/20/2014	Washington Ave., Runnemede	3/11/2015
Damage, Gas	GS15040461K	GOC2014-0264	Did not properly mark out	\$3,000	PSE&G		6/16/2014	Church Rd., Medford	2/18/2015
Damage, Gas	GS15040462K	GOC2014-0858	Did not properly mark out	\$3,000	PSE&G		9/19/2014	Union Ave., Belleville	2/13/2015
Damage, Gas	GS15040463K	GOC2014-0859	Did not properly mark out	\$3,000	PSE&G		9/19/2014	Madison Ave., Lumberton	2/18/2015
Damage, Gas	GS15040464K	GOC2014-0142	Did not properly mark out	\$3,000	South Jersey Gas		5/13/2014	Georgia Ave., Atlantic City	2/26/2015
Damage, Gas	GS15040465K	GOC2014-0937	Did not properly mark out	\$3,000	South Jersey Gas		10/7/2014	Haddon Ave., Berlin	2/26/2015
Damage, Gas	GS15040466K	GOC2014-0482	Did not properly mark out	\$3,000	South Jersey Gas		7/17/2014	Oakland Ave., Pleasantville	2/26/2015
Damage, Gas	GS15040467K	GOC2014-0711	Did not properly mark out	\$3,000	PSE&G		8/27/2014	2nd St., Palisades Park	2/23/2015
Damage, Gas	GS15040473K	GOC2014-0638	Did not properly mark out	\$3,000	PSE&G		8/25/2014	River Rd., Bogota	2/23/2015
Damage, Gas	GS15040468K	GOC2014-1084	Did not properly mark out	\$3,000	PSE&G		10/29/2014	Tower Blvd., Piscataway	2/25/2015
Damage, Electric	ES15040469K	EOC2014-0020	Did not properly mark out Non Gas Damage	\$2,000	JCP&L		5/14/2014	Hastings Rd., Mancehster	3/12/2015
Non Damage	WS15040470K	NOC2014-0078	Did not have a valid markout	\$1,000		NJ American Water	10/7/2014	Sunset Ave. & North Mall Drive, Ocean Twp.	2/25/2015
Damage, Gas	GS15040427K	GOC2014-0349	Did not properly mark out	\$3,000	PSE&G		6/17/2014	Mercer Rd., Princeton	3/2/2015
Damage, Electric	ES15040428K	EOC2014-0087	Did not properly mark out Non Gas Damage	\$2,000	PSE&G		6/10/2014	Windrow Dr., Plainsboro	3/2/2015
Non Damage	TS15040429K	NOC2014-0063	Did not properly mark out	\$1,000	Verizon		9/10/2014	South Winslow Ave., Galloway	3/3/2015
Damage, Gas	GS15030320K	GOC2014-0633	Did not properly mark out	\$3,000	PSE&G		8/20/2014	New Albany Rd., Moorestown	1/26/2015
Total		49		\$127,000					