



Agenda Date: 7/22/15
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.)
)
) DOCKET NOs.GS15060715K
) et al. (see attached appendix)

Parties of Record:

- Vincent Fumero**, On-Site Construction
- Francisco Coria**, Landscape Design
- Robert Noel**, Pinelands Water
- Craig Lynch**, NJ Natural Gas
- Sergio Leiria**, Leiria Brothers
- Antonio Pereira**, Pax Construction
- George Scelso**, GPS PLumbing
- Jim Roberts**, Century Link

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 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 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.

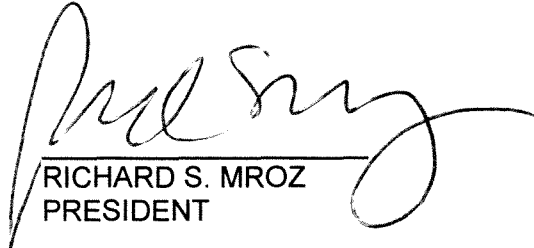
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Underground Facility Protection Act in connection with the above-referenced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

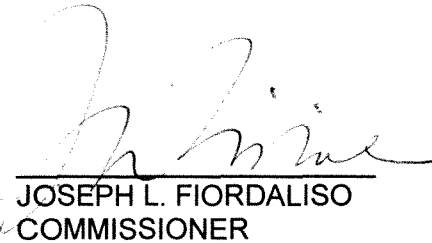
This Order shall be effective on August 1, 2015.

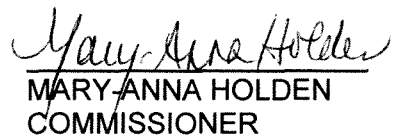
NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED

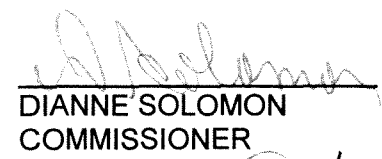
DATED: July 23, 2015

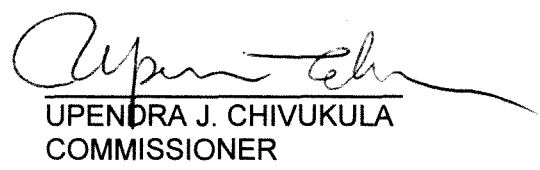
BOARD OF PUBLIC UTILITIES
BY:

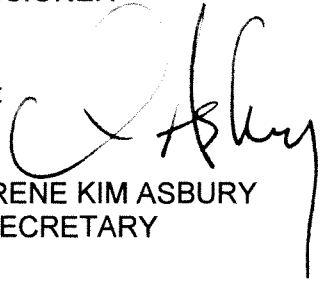

RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER

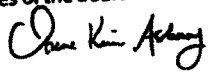

MARY-ANNA HOLDEN
COMMISSIONER


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. GS15060715K et al. (see attached appendix)**

SERVICE LIST

Vincent Fumero
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Westfield, NJ 07090

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Lar.Jscape Design
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Perth Amboy, NJ 08862

Robert Noel
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Iselin, NJ 08830

Craig Lynch
NJ Natural Gas
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Wall, NJ 07719

Sergio Leiria
Leiria Brothers
944 Kenneth Ave.
Elizabeth, NJ 07202

Antonio Pereira
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George Scelso
GPS Plumbing
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Berlin, NJ 08091

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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-July 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	GS15060715K	GOC2014-0924	Did not have a valid markout	\$3,000		On-site Construction	10/1/2014	Summit Rd, Mountainside	5/25/2015
Damage, Gas	GS15060721K	GOC2014-0917	Did not have a valid markout	\$3,000		Landscape Design	9/27/2014	Rivers Edge Dr, Colts Neck	4/14/2015
Non Damage	WS15060716K	NOC2015-0008	Did not properly mark out	\$1,000	Pinelands Water		4/13/2015	Westminster Dr, Southampton	5/11/2015
Damage, Gas	GS15060717K	GOC2014-1095	Did not properly mark out	\$3,000	NJ Natural Gas		10/20/2014	Hemlock Rd, Howell	5/13/2015
Damage, Gas	GS15060718K	GOC2014-0954	Did not have a valid markout	\$3,000		Leiria Brothers	10/2/2014	Rt. 206, Bedminster	5/9/2015
Damage, Electric	TS15060719K	EOC2014-0003	Did not have a valid markout	\$2,000		Pax Construction	4/2/2014	Ocean Ave, Monmouth Beach	5/15/2015
Damage, Telephone	TS15060720K	TOC2014-0035	Did not have a valid markout	\$2,000		GPS Plumbing	7/8/2014	Laurel Rd E., Stratford	5/21/2015
Non Damage	TS15060680K	NOC2014-0134	Failed to file damage report	\$1,000	Century Link		4/30/2014	Failure to file report to BPU	5/26/2015
Non Damage	TS15060681K	NOC2014-0133	Failed to file damage report	\$1,000	Century Link		1/31/2014	Failure to file report to BPU	5/27/2015
Non Damage	TS15060682K	NOC2013-0008	Failed to file damage report	\$1,000	Century Link		10/31/2013	Failure to file report to BPU	5/28/2015
Non Damage	TS15060683K	NOC2013-0007	Failed to file damage report	\$1,000	Century Link		7/31/2013	Failure to file report to BPU	5/29/2015
Non Damage	TS15060684K	NOC2013-0006	Failed to file damage report	\$1,000	Century Link		4/30/2013	Failure to file report to BPU	5/30/2015
Non Damage	TS15060685K	NOC2013-0005	Failed to file damage report	\$1,000	Century Link		1/31/2013	Failure to file report to BPU	5/31/2015
Non Damage	TS15060686K	NOC2012-0010	Failed to file damage report	\$1,000	Century Link		10/31/2012	Failure to file report to BPU	6/1/2015
Non Damage	TS15060687K	NOC2012-0009	Failed to file damage report	\$1,000	Century Link		7/31/2012	Failure to file report to BPU	6/2/2015
Non Damage	TS15060688K	NOC2012-0008	Failed to file damage report	\$1,000	Century Link		4/30/2012	Failure to file report to BPU	6/3/2015
Non Damage	TS15060689K	NOC2012-0007	Failed to file damage report	\$1,000	Century Link		1/31/2012	Failure to file report to BPU	6/4/2015
Non Damage	TS15060690K	NOC2011-0004	Failed to file damage report	\$1,000	Century Link		10/31/2011	Failure to file report to BPU	6/5/2015
Non Damage	TS15060691K	NOC2011-0003	Failed to file damage report	\$1,000	Century Link		7/31/2011	Failure to file report to BPU	6/6/2015
Non Damage	TS15060692K	NOC2011-0002	Failed to file damage report	\$1,000	Century Link		4/30/2011	Failure to file report to BPU	6/7/2015
Non Damage	TS15060693K	NOC2011-0001	Failed to file damage report	\$1,000	Century Link		1/31/2011	Failure to file report to BPU	6/8/2015
Non Damage	TS15060694K	NOC2010-0004	Failed to file damage report	\$1,000	Century Link		10/31/2010	Failure to file report to BPU	6/9/2015
Non Damage	TS15060695K	NOC2010-0003	Failed to file damage report	\$1,000	Century Link		7/31/2010	Failure to file report to BPU	6/10/2015
Non Damage	TS15060696K	NOC2010-0002	Failed to file damage report	\$1,000	Century Link		4/30/2010	Failure to file report to BPU	6/11/2015
Total		24		\$34,000					