



Agenda Date: 12/16/15
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. GS15101157K et al.**
) **(see attached appendix)**

Parties of Record:

- John F. Stanziola, Manager, South Jersey Gas**
- Frank Coriano, Manager, Public Service Electric and Gas Company**
- Tom Shroba, Manager, NJ American Water**
- Ralph Hillmer, Manager, Jersey Central Power and Light**
- Bernard Smalls, Manager, Verizon**
- Nick Depoto, Manager, Elizabethtown Gas**

BY THE BOARD:¹

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

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. Commissioner Joseph L. Fiordaliso was not present at the December 16, 2015 agenda meeting.

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.

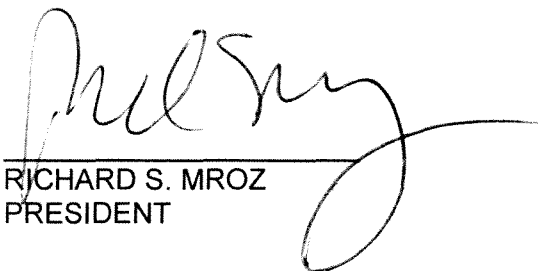
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Underground Facility Protection Act in connection with the above-referenced 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 December 26, 2015.


NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

DATED: 12/16/15

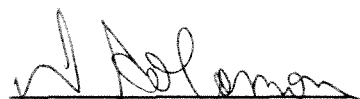
BOARD OF PUBLIC UTILITIES
BY:



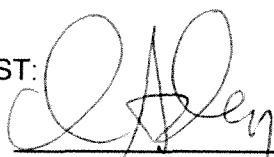
RICHARD S. MROZ
PRESIDENT



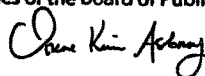
MARY-ANNA HOLDEN
COMMISSIONER



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. GS15101157K 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-December VIB 2015

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS15101157K	GOC2015-0258	Did not properly mark out	\$3,000	South Jersey Gas		3/31/2015	West Ave., Ocean City	9/22/2015
Damage, Gas	GS15101155K	GOC2014-0941	Did not properly mark out	\$3,000	South Jersey Gas		10/8/2014	9th Ave., Runnemede	9/22/2015
Damage, Gas	GS15101154K	GOC2015-0046	Did not properly mark out	\$3,000	PSE&G		1/15/2015	Queen Anne Rd., Bogota	9/11/2015
Non Damage, Gas	WS15101152K	NOC2014-0040	Did not properly mark out, non-damage	\$1,000	NJ American Water		8/21/2014	Rt 33, Wall	9/14/2015
Damage, Gas	GS15101148K	GOC2015-0021	Did not properly mark out	\$3,000	PSE&G		1/5/2015	Ferry St., Newark	9/10/2015
Damage, Gas	GS15101147K	GOC2015-0022	Did not properly mark out	\$3,000	PSE&G		1/7/2015	W 10th St., Bayonne	9/10/2015
Damage, Water	WS15101176K	WOC2014-0030	Did not properly mark out, non-gas damage	\$2,000	NJ American Water		6/10/2014	Monmouth Ave., Port Monmouth	9/16/2015
Damage, Gas	GS15101175K	GOC2015-0035	Did not properly mark out	\$3,000	PSE&G		1/13/2015	Farms Rd. Cir., East Brunswick	9/3/2015
Damage, Gas	GS15101174K	GOC2015-0033	Did not properly mark out	\$3,000	PSE&G		1/7/2015	Springfield Rd., East Brunswick	9/3/2015
Damage, Gas	GS15101173K	GOC2015-0091	Did not properly mark out	\$3,000	PSE&G		2/3/2015	Kaplan Ave., Hackensack	9/2/2015
Damage, Gas	GS15101171K	GOC2015-0055	Did not properly mark out	\$3,000	PSE&G		1/23/2015	Bradley Rd., Morristown	9/2/2015
Damage, Gas	GS15101168K	GOC2015-0092	Did not properly mark out	\$3,000	PSE&G		2/6/2015	Bergenline Ave., North Bergen	9/3/2015
Damage, Electric	ES15101165K	EOC2014-0030	Did not properly mark out, non-gas damage	\$2,000	JCP&L		6/10/2014	Redfield Rd., Middletown	9/14/2015
Damage, Electric	ES15101163K	EOC2014-0123	Did not properly mark out, non-gas damage	\$2,000	JCP&L		9/3/2014	Pritchard Way, Belvidere	9/14/2015
Damage, Gas	GS15101162K	GOC2014-1385	Did not properly mark out	\$3,000	PSE&G		11/24/2014	Huntington St., New Brunswick	8/26/2015
Damage, Gas	GS15101160K	GOC2014-1384	Did not properly mark out	\$3,000	PSE&G		11/24/2014	Hoes Ln., Piscataway	8/26/2015
Damage, Electric	ES15101156K	EOC2014-0070	Did not properly mark out, non-gas damage	\$2,000	PSE&G		4/9/2014	Barclay St. & Spruce St., Newark	8/26/2015
Damage, Gas	GS15101153K	GOC2015-0129	Did not properly mark out	\$3,000	PSE&G		2/26/2015	Birchfield Dr., Mt. Laurel	8/24/2015
Non Damage, Water	WS15101151K	NOC2015-0071	Did not properly mark out, non-damage	\$1,000	NJ American Water		6/22/2015	William St., Piscataway	9/17/2015
Damage, Water	WS15111257K	WOC2014-0055	Did not properly mark out, non-gas damage	\$2,000	NJ American Water		7/15/2014	Ashland Rd., Summit	10/14/2015
Damage, Water	WS15111258K	WOC2014-0059	Did not properly mark out, non-gas damage	\$2,000	NJ American Water		8/12/2014	Druid Hill Rd., Summit	10/14/2015
Damage, Water	WS15111259K	WOC2014-0048	Did not properly mark out, non-gas damage	\$2,000	NJ American Water		8/20/2014	Grove St., Bernardsville	10/14/2015
Damage, Gas	GS15111260K	GOC2014-0199	Did not properly mark out	\$3,000	South Jersey Gas		6/4/2014	E Artic Ave., Wildwood	10/16/2015
Damage, Gas	GS15111261K	GOC2015-0154	Did not properly mark out	\$3,000	South Jersey Gas		3/3/2015	Pinelawn Ave., Lindenwold	10/16/2015
Damage, Gas	GS15111262K	GOC2015-0108	Did not properly mark out	\$3,000	PSE&G		2/17/2015	Broadview Terrace, Paramus	9/15/2015
Damage, Gas	GS15111263K	GOC2014-1121	Did not properly mark out	\$3,000	PSE&G		10/28/2014	Main St., Fort Lee	9/15/2015
Damage, Gas	GS15111264K	GOC2014-1123	Did not properly mark out	\$3,000	PSE&G		11/5/2014	Howard St., Lodi	9/16/2015
Damage, Gas	GS15111265K	GOC2014-0853	Did not properly mark out	\$3,000	PSE&G		9/10/2014	Hamburg Tpke., Bloomingdale	9/16/2015

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS15111266K	GOC2015-0124	Did not properly mark out	\$3,000	PSE&G		2/21/2015	Rosewood St., Fairlawn	9/16/2015
Damage, Gas	GS15111267K	GOC2014-1387	Did not properly mark out	\$3,000	PSE&G		11/28/2014	George St., New Brunswick	9/17/2015
Damage, Gas	GS15111268K	GOC2014-1133	Did not properly mark out	\$3,000	PSE&G		11/5/2014	S. Mill Road, West Windsor	9/18/2015
Damage, Gas	GS15111269K	GOC2015-0015	Did not properly mark out	\$3,000	PSE&G		1/14/2015	Western Way, Princeton	9/18/2015
Damage, Gas	GS15111270K	GOC2015-0017	Did not properly mark out	\$3,000	PSE&G		1/15/2015	Lincoln Hwy., Princeton	9/18/2015
Damage, Gas	GS15111271K	GOC2015-1030	Did not properly mark out	\$3,000	PSE&G		2/26/2015	Monmouth Ave., Bridgewater	9/23/2015
Non Damage	TS15111272K	NOC2014-0007	Did not properly mark out, non-damage	\$1,000	Verizon		3/25/2014	Main St., Holmdel	9/28/2015
Damage, Gas	GS15111273K	GOC2015-0121	Did not properly mark out	\$3,000	Elizabethtown Gas		3/3/2015	Pembroke Dr., Kenilworth	9/22/2015
Damage, Gas	GS15111274K	GOC2014-0878	Did not properly mark out	\$3,000	PSE&G		9/30/2014	Windsor St., Kearny	10/2/2015
Non Damage	WS15101150K	NOC2015-0072	Did not properly mark out, non-damage	\$1,000	NJ American Water		7/3/2015	William St., Piscataway	9/17/2015
Damage, Water	WS15101149K	WOC2014-0060	Did not properly mark out, non-gas damage	\$3,000	NJ American Water		9/9/2014	Fairmont Ave., Elizabeth	4/2/2015
Total	39			\$102,000					