



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.

Pursuant to the Act, violators of its provisions shall be subject to civil penalties of no less than \$1,000.00 and no 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 to civil penalties not to exceed \$200,000.00 per violation per day, and not to exceed \$2,000,000.00 for any related series of violations. N.J.S.A. 48:2-86(c). In addition, costs may be assessed related to any Board investigation, inspection, or monitoring survey which led to the establishment of a violation, and/or the reasonable costs of preparing and litigating the matter. N.J.S.A. 48:2-86(b)(2).

Following reports of various failures under the Act including, but not limited to, failing to call the System prior to commencing excavation or demolition activities, failing to hand dig and locate facilities, failing to use reasonable care, and/or failing to mark out or properly mark out underground facilities, Board Staff contacted the entities and informed them of the date and location of the alleged violations. A complete list of entities and violations is provided in the Appendix attached hereto and made a part hereof.

In an attempt to resolve these matters, the entities described in the Appendix submitted an Offer of Settlement to the Board for its review and consideration. The Offers of Settlement are summarized in the attached Appendix.

## **DISCUSSION AND FINDINGS**

After consideration of the matters provided in the Appendix, including the entities, alleged violations, and the various Offers of Settlement, 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 alleged violations of the Act as provided in the Appendix.

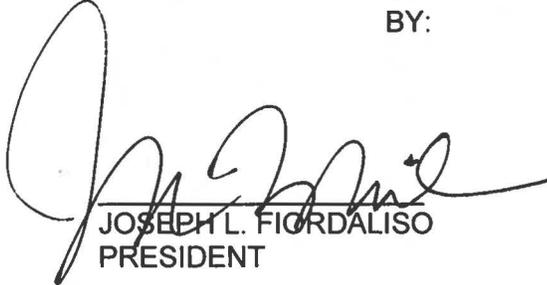
By acceptance of the Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations. It must also be noted that the acceptance of the Offers of Settlement is for settlement purposes only and applies 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.

**NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.**

This Order shall be effective on October 13, 2021.

DATED: 10/6/21

BOARD OF PUBLIC UTILITIES  
BY:



JOSEPH L. FIORDALISO  
PRESIDENT



MARY-ANNA HOLDEN  
COMMISSIONER



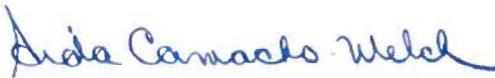
DIANNE SOLOMON  
COMMISSIONER



UPENDRA J. CHIVUKULA  
COMMISSIONER



ROBERT M. GORDON  
COMMISSIONER

ATTEST:   
AIDA CAMACHO-WELCH  
SECRETARY

**IN THE MATTER OF ALLEGED VIOLATIONS OF THE UNDERGROUND FACILITY  
PROTECTION ACT, N.J.S.A. 48:2-73 to -91  
DOCKET NOS. GS21091117K et al. (See attached appendix)**

**SERVICE LIST**

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Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
GAS	GS21091117K	GOC2017-1196	Did not properly mark-out	\$3000.00	PSE&G	PSE&G	08/30/2017	Franklin Lakes, NJ	09/25/2019
GAS	GS21091114K	GOC2021-0787	Did not have valid mark-out	\$3000.00	PSE&G	Robert Kennedy Enterprises LLC	06/23/2021	Burlington, NJ	07/12/2021
GAS	GS21091115K	GOC2017-1189	Did not properly mark-out	\$3000.00	PSE&G	PSE&G	08/30/2017	North Plainfield, NJ	09/25/2019
GAS	GS21091116K	GOC2018-1056	Did not properly mark-out	\$3000.00	South Jersey Gas	South Jersey Gas	08/22/2018	Vineland, NJ	07/22/2019
NON-damage	AS21091118K	NOC2020-0001	Did not have valid mark-out	\$1000.00	PSE&G	American Residential Services LLC/ A.J. Perri	09/03/2020	Caldwell, NJ	09/21/2020
	<b>5 Cases</b>			<b>\$13,000.00</b>					