



Agenda Date: 8/17/22  
Agenda Item: VIA

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://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 to -91 )  
)  
) DOCKET NOS. GS22070419K  
) et al. (see attached Appendix)

**Parties of Record:**

- Lauriston Stephenson**, Public Service Electric and Gas Company
- Mike Widmer**, South Jersey Gas Company
- Ernesto Tamay**, Ernest & Sons Corp.
- Alison Sbrisca**, New Jersey Natural Gas Company
- Gill Carzalheiro**, G R Concrete Contractors
- Daniel Capotelle**, Mr. Fence
- Javier Presentado**, J&M Construction Services
- Antonio Buchel, PE**, Earle Asphalt
- Harry Gibson**, Gibson Electrical Contractors
- Chaim Katz**, Nojos Fencing
- Pedro Pino, Pro Se**
- Craig Bagin**, B & B Pool and Spa Center

BY THE BOARD:<sup>1</sup>

**I. BACKGROUND**

The New Jersey Board of Public Utilities (“Board”) has jurisdiction to oversee and enforce the provisions of the Underground Facility Protection Act (“Act”) pursuant to N.J.S.A. 48:2-73 to -91. The Act establishes the One-Call Damage Prevention System (“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, and/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

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<sup>1</sup> Commissioner Zenon Christodoulou abstained from voting on this matter.

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.

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 be 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 leads 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 alleged violations 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 alleged 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 in the Appendix submitted an Offer of Settlement to the Board for its review and consideration. Said Offers of Settlement are also provided in the attached Appendix. Each such Offer of Settlement is summarized in the Appendix.

## II. **DECISION AND FINDINGS**

After consideration of the matters provided in the Appendix, including the alleged violations and the 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 attached hereto and made part hereof.

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.

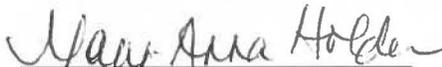
**NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.**

This Order shall be effective on August 24, 2022.

DATED: August 17, 2022

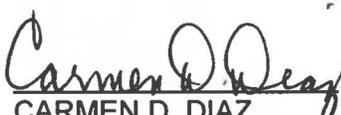
BOARD OF PUBLIC UTILITIES  
BY:

  
JOSEPH L. FIORDALISO  
PRESIDENT

  
MARY-ANNA HOLDEN  
COMMISSIONER

  
DIANNE SOLOMON  
COMMISSIONER

  
ROBERT M. GORDON  
COMMISSIONER

ATTEST:   
CARMEN D. DIAZ  
ACTING 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 to -91

DOCKET NOS. GS22070419K et al. (see attached Appendix)

SERVICE LIST

<p>Lauriston Stephenson Public Service Electric &amp; Gas Company P.O. Box 1868 Newark, NJ 07101 <a href="mailto:lauriston.stephenson@pseg.com">lauriston.stephenson@pseg.com</a></p> <p>Mike Widmer South Jersey Gas Company 1 South Jersey Plaza Folsom, NJ 08037 <a href="mailto:mwidmer@sjindustries.com">mwidmer@sjindustries.com</a></p> <p>Ernesto Tamay Ernest &amp; Sons Corp. 17 Meeker St. West Orange, NJ 07052 <a href="mailto:Ernestosons76@gmail.com">Ernestosons76@gmail.com</a></p> <p>Alison Sbrisca New Jersey Natural Gas Company 1415 Wyckoff Road Wall, NJ 07719 <a href="mailto:asbriscia@njng.com">asbriscia@njng.com</a></p> <p>Gill Carzalheiro G R Concrete Contractors 112 Gravel Hill Spotswood Rd. Monroe, NJ 08831</p> <p>Daniel Capotelle Mr. Fence 630 Rt. 9 S. Freehold, NJ 07728 <a href="mailto:Mrfencenj@gmail.com">Mrfencenj@gmail.com</a></p> <p>Javier Presentado J&amp;M Construction Services 335 Washington Aves. Dover, NJ 07801 <a href="mailto:Jmconstructionservicesllc2@gmail.com">Jmconstructionservicesllc2@gmail.com</a></p> <p>Antonio Buchel, PE Earle Asphalt 1800 Rt. 34 Wall, NJ 07719 <a href="mailto:Abuchel@earleco.com">Abuchel@earleco.com</a></p> <p>Harry Gibson Gibson Electrical Contractors 1016 Jarvis Road Sicklerville, NJ 08081</p>	<p>Chaim Katz Nojos Fencing 17 Rosepark Crescent Lakewood, NJ 08701 <a href="mailto:chaim@nojosfencing.com">chaim@nojosfencing.com</a></p> <p>Craig Bagin B &amp; B Pool and Spa Center 787 Chestnut Ridge Road Chestnut Ridge, NY 10977 <a href="mailto:craig@bbpoolandspa.com">craig@bbpoolandspa.com</a></p> <p>Pedro Pino 1369 Saint Georges Avenue Rahway, NJ 070765</p> <p><b><u>Attorney General's Office</u></b> Matko Ilic, DAG NJ Department of Law and Public Safety Richard J. Hughes Justice Complex 25 Market Street – P.O. Box 112 Trenton, NJ 08625 <a href="mailto:Matko.ilic@law.njoag.gov">Matko.ilic@law.njoag.gov</a></p> <p><b><u>Board of Public Utilities</u></b> 44 South Clinton Avenue, 1<sup>st</sup> Floor PO Box 350 Trenton NJ, 08625-0350</p> <p>Carmen Diaz, Acting Secretary <a href="mailto:board.secretary@bpu.nj.gov">board.secretary@bpu.nj.gov</a></p> <p>Stacy Peterson, Deputy Executive Director <a href="mailto:Stacy.peterson@bpu.nj.gov">Stacy.peterson@bpu.nj.gov</a></p> <p>Heather Weisband, Esq., Senior Counsel <a href="mailto:Heather.weisband@bpu.nj.gov">Heather.weisband@bpu.nj.gov</a></p> <p><b><u>Division of Reliability &amp; Security</u></b></p> <p>Jody Raines, Deputy Director <a href="mailto:Jody.raines@bpu.nj.gov">Jody.raines@bpu.nj.gov</a></p> <p>Phillip Galka, Bureau Chief <a href="mailto:Phillip.galka@bpu.nj.gov">Phillip.galka@bpu.nj.gov</a></p> <p>Ann Lang <a href="mailto:Ann.lang@bpu.nj.gov">Ann.lang@bpu.nj.gov</a></p> <p>Lauren Mattox <a href="mailto:Lauren.mattox@bpu.nj.gov">Lauren.mattox@bpu.nj.gov</a></p>
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## APPENDIX REPORT

IN THE MATTER OF: GS22070419K et al.  
 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 – August 17, 2022

Damage Type	Docket #	OC #	Type of Violation / Penalty / Payment Received	Operator	Excavator	Violation Date	Location
GAS	GS22070419K	GOC2022-0464	DID NOT HAVE A VALID MARKOUT AT TIME OF EXCAVATION / \$3000.00 / 05/27/2022		B & B Pool and Spa Center	04/29/2022	Independence Dr., Basking Ridge, NJ 07920
GAS	GS22070420K	GOC2022-0368	DID NOT HAVE A VALID MARKOUT AT TIME OF EXCAVATION / \$3000.00 / 05/24/2022		Pedro Pino	04/21/2022	Farmingdale Rd, Scotch Plains, NJ 07076
GAS	GS22070421K	GOC2022-0360	DID NOT PROPERLY MARK / \$3000.00 / 05/17/2022	NJ NATURAL GAS		04/12/2022	Intersection of King St & Shore Drive, Highlands, NJ 07732
GAS	GS22070422K	GOC2022-0308	DID NOT HAVE A VALID MARKOUT AT TIME OF EXCAVATION / \$3000.00 / 05/10/2022		GIBSON ELECTRICAL CONTRACTORS	04/08/2022	Garfield Ave, Clementon, NJ 08021
GAS	GS22070423K	GOC2022-0263	DID NOT PROPERLY MARK / \$3000.00 / 05/17/2022	NJ NATURAL GAS		03/31/2022	Lowell Ave, Mountain Lakes, NJ 07046
GAS	GS22070424K	GOC2022-0349	DID NOT HAVE A VALID MARKOUT AT TIME OF EXCAVATION / \$3000.00 / 05/17/2022		NOJOS FENCING	03/31/2022	Royal Dr., Piscataway, NJ 08854
GAS	GS22070425K	GOC2022-0257	DID NOT PROPERLY MARK / \$3000.00 / 05/17/2022	NJ NATURAL GAS		03/30/2022	Lacey Rd, Whiting, NJ 08759
GAS	GS22070426K	GOC2022-0259	DID NOT HAVE A VALID MARKOUT AT TIME OF EXCAVATION / \$3000.00 / 05/12/2022		Earle Asphalt	03/30/2022	Andrews Rd, Toms River, NJ 08753
GAS	GS22070427K	GOC2022-0255	DID NOT HAVE A VALID MARKOUT AT TIME OF EXCAVATION / \$3000.00 / 05/24/2022		Mr. Fence	03/29/2022	London Dr., Jackson, NJ 08527
GAS	GS22070428K	GOC2022-0256	DID NOT HAVE A VALID MARKOUT AT TIME OF EXCAVATION / \$3000.00 / 05/24/2022		J&M Construction Services	03/29/2022	Gordon Rd, Middletown, NJ 07748
GAS	GS22070429K	GOC2022-0205	DID NOT PROPERLY MARK / \$3000.00 / 05/06/2022	NJ NATURAL GAS		03/08/2022	Valencia Dr., Brick, NJ 08723

GAS	GS22070430K	GOC2022-0204	DID NOT HAVE A VALID MARKOUT AT TIME OF EXCAVATION / \$3000.00 / 05/06/2022		GR Concrete Contractors	03/07/2022	US Highway 9, Howell, NJ 07731
GAS	GS22070431K	GOC2022-0130	DID NOT PROPERLY MARK / \$3000.00 / 05/06/2022	NJ NATURAL GAS		02/24/2022	Broad St, Red Bank, NJ 07701
GAS	GS22070432K	GOC2022-0027	DID NOT PROPERLY MARK / \$3000.00 / 05/04/2022	SOUTH JERSEY GAS		01/24/2022	Hampton St, Bridgeton, NJ 08302
GAS	GS22070433K	GOC2022-0058	DID NOT HAVE A VALID MARKOUT AT TIME OF EXCAVATION / \$3000.00 / 05/19/2022		ERNEST & SONS CORP	01/12/2022	Devon Dr., West Orange, NJ 07052
GAS	GS22070434K	GOC2021-1718	DID NOT PROPERLY MARK / \$3000.00 / 05/24/2022	PSE&G (G)		12/21/2021	Thomas St, Clifton, NJ 07013
<b>Total:</b>	<b>16</b>		<b>\$48,000</b>				