



Agenda Date: 2/17/23
Agenda Item: VIA

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st 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 to -91)
)
) DOCKET NOS. GS22020083K
) et al. (see attached Appendix)

Parties of Record:

- Nick Depoto**, Elizabethtown Gas Company
- Alison Sbriscia**, New Jersey Natural Gas Company
- Christopher Donnelly**, 609 Masonry LLC
- Chelsey Gaworecki**, Public Service Electric and Gas Company
- Michael Widmer**, South Jersey Gas Company
- William J. Guarini**, Guarini Plumbing

BY THE BOARD:

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 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 February 27, 2023.

DATED: February 17, 2023

BOARD OF PUBLIC UTILITIES
BY:





JOSEPH L. FIORDALISO
PRESIDENT




MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER



DR. ZENON CHRISTODOULOU
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. GS22020083K et al. (see attached Appendix)

SERVICE LIST

<p>Nick Depoto Elizabethtown Gas Company 520 Green Lane Union, NJ 07083 cdepoto@sjindustries.com</p> <p>Alison Sbriscia New Jersey Natural Gas Company 1415 Wyckoff Road Wall, NJ 07719 asbriscia@njng.com</p> <p>Michael Widmer South Jersey Gas Company One South Jersey Plaza Folsom, NJ 08037 mwidmer@sjindustries.com</p> <p>Christopher Donnelly 609 Masonry LLC 119 Tomlin Avenue Villas, NJ 08251</p> <p>Chelsey Gaworecki Public Service Electric and Gas Company 80 Park Plaza Newark, NJ 07102 chelsey.gaworecki@pseg.com</p> <p>William J. Guarini Guarini Plumbing 132 Mallory Avenue Jersey City, NJ 07304 sales@juariniplumbing.com</p>	<p><u>Attorney General's Office</u> 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 matko.ilic@law.njoag.gov</p> <p><u>Board of Public Utilities</u> 44 South Clinton Avenue, 1st Floor PO Box 350 Trenton NJ, 08625-0350</p> <p>Carmen Diaz, Acting Secretary board.secretary@bpu.nj.gov</p> <p>Stacy Peterson, Deputy Executive Director stacy.peterson@bpu.nj.gov</p> <p>Heather Weisband, Senior Counsel heather.weisband@bpu.nj.gov</p> <p>Michael Beck, General Counsel Michael.beck@bpu.nj.gov</p> <p><u>Division of Reliability & Security</u></p> <p>Francis Gaffney, Director francis.gaffney@bpu.nj.gov</p> <p>Phillip Galka phillip.galka@bpu.nj.gov</p> <p>Ann Lang ann.lang@bpu.nj.gov</p> <p>Lauren Mattox lauren.mattox@bpu.nj.gov</p>
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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 – February 17, 2023
Docket Nos. GS22020083K et al.

Damage Type	BPU Dkt	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
GAS	GS22020083K	GOC2021-0978	DID NOT PROPERLY MARK	\$3,000	Elizabethtown Gas		08/19/2021	Brook St., Linden, NJ	01/05/2022
GAS	GS22040295K	GOC2022-0007	DID NOT PROPERLY MARK	\$3,000	South Jersey Gas		01/10/2022	Battersea Rd., Ocean City, NJ	03/16/2022
GAS	GS22040296K	GOC2022-0008	DID NOT PROPERLY MARK	\$3,000	South Jersey Gas		01/10/2022	Mediterranean Ave., Wildwood, NJ	03/16/2022
GAS	GS22040297K	GOC2022-0009	DID NOT PROPERLY MARK	\$3,000	South Jersey Gas		01/10/2022	Bradford Way, Voorhees, NJ	03/16/2022
GAS	GS22040298K	GOC2022-0012	DID NOT PROPERLY MARK	\$3,000	South Jersey Gas		01/12/2022	Pacific Ave., Wildwood, NJ	03/16/2022
GAS	GS22040299K	GOC2022-0013	DID NOT PROPERLY MARK	\$3,000	South Jersey Gas		01/12/2022	Shore Rd., Ocean View, NJ	03/16/2022
GAS	GS22040300K	GOC2022-0050	DID NOT HAVE A VALID MARKOUT	\$3,000		New Jersey Natural Gas	01/27/2022	Center St., Little Egg Harbor, NJ	03/03/2022
GAS	GS22040303K	GOC2021-1358	DID NOT HAVE A VALID MARKOUT	\$3,000		609 Masonry LLC	10/27/2021	Main St., Middle Twp., NJ	03/09/2022
GAS	GS22040304K	GOC2021-1495	DID NOT PROPERLY MARK	\$3,000	PSE&G		10/27/2021	Redneck Ave., Little Ferry, NJ	03/01/2022
GAS	GS22040305K	GOC2021-1546	DID NOT PROPERLY MARK	\$3,000	Elizabethtown Gas		12/03/2021	Linden Ave., Elizabeth, NJ	03/16/2022
GAS	GS22040306K	GOC2021-1594	DID NOT HAVE A VALID MARKOUT	\$3,000		Guarini Plumbing	11/19/2021	Constitution Way, Waterfront, Jersey City, NJ	03/21/2022
GAS	GS22040307K	GOC2021-1664	DID NOT PROPERLY MARK	\$3,000	New Jersey Natural Gas		12/22/2021	Washington St. & Allen St., Toms River, NJ	03/11/2022
Total Cases	12								
Total Amount	\$36,000								