



Agenda Date: 10/25/23  
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 ET SEQ.

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ORDER ACCEPTING  
SETTLEMENTS  
  
DOCKET NOS. GS23090684K  
et al. (see attached Appendix)

**Party of Record:**

**Rory Senseman**, South State, Inc.  
**Mike Widmer**, South Jersey Gas Company  
**Alison Sbriscia**, New Jersey Natural Gas Company

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, N.J.S.A. 48:2-73 et seq. (“Act”). The Act establishes the One-Call Damage Prevention System (“One-Call 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 hazardous liquids. 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 One-Call System prior to commencing excavation, failing to use reasonable care, and/or failing to mark out or properly mark out underground facilities, Board Staff issued a Notice of Probable Violation and Offer of Settlement to each of the alleged violators and informed them of the date and location of the alleged violations. A complete list of entities that accepted said Offers of Settlement is provided in Appendix A attached hereto and made a part hereof.<sup>1</sup>

## II. DECISION AND FINDINGS

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

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<sup>1</sup> The 25 Offers of Settlement were accepted by the alleged violators, and each made full payment on the dates provided in Appendix A.

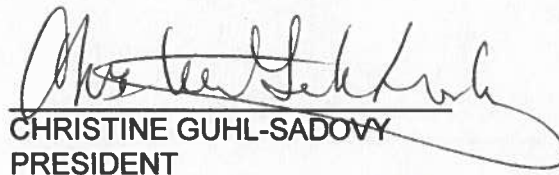
By acceptance of the Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations. It must 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 Appendix A. 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.**

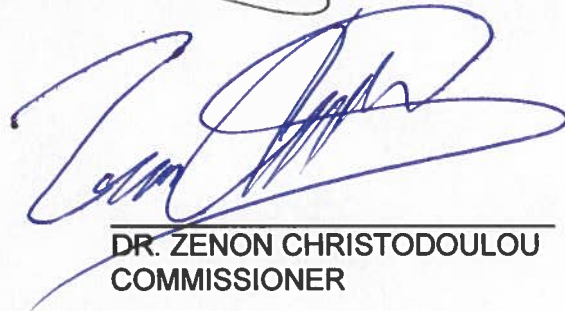
This Order shall be effective on November 1, 2023.

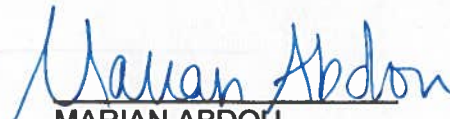
DATED: October 25, 2023

BOARD OF PUBLIC UTILITIES  
BY:

  
CHRISTINE GUHL-SADOVY  
PRESIDENT

  
MARY-ANNA HOLDEN  
COMMISSIONER

  
DR. ZENON CHRISTODOULOU  
COMMISSIONER

  
MARIAN ABDOU  
COMMISSIONER

ATTEST:   
SHERRI L. GOLDEN  
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.

DOCKET NOS. GS23090684K et al. (see attached Appendix)

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**APPENDIX A**

Agenda Date: 10/25/23  
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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.

Docket Nos. GS23090684K et al.

Facility Damaged	BPU Docket #	Case #	Type of Violation	Penalty	Alleged Violator	Violation Date	Location	Payment Date
Natural Gas	GS23090684K	GOC2017-0219	Failure to Use Reasonable Care	\$3,000	South State Inc.	3/7/2017	Bridgeton, NJ	2/23/2018
Natural Gas	GS23090685K	GOC2017-0353	Failure to Use Reasonable Care	\$3,000	South State Inc.	4/12/2017	Upper Township, NJ	2/23/2018
Natural Gas	GS23090686K	GOC2018-0142	Did Not Properly Mark	\$3,000	South Jersey Gas	2/27/2018	Northfield, NJ	3/21/2019
Natural Gas	GS23090687K	GOC2017-0082	Did Not Properly Mark	\$3,000	South Jersey Gas	1/21/2017	Franklin, NJ	9/13/2023
Natural Gas	GS23090688K	GOC2018-1333	Did Not Properly Mark	\$3,000	NJ Natural Gas	10/17/2018	Rockaway, NJ	10/25/2019
Natural Gas	GS23090689K	GOC2019-1692	Did Not Properly Mark	\$3,000	South Jersey Gas	12/24/2019	Monroe Township, NJ	8/31/2020
Natural Gas	GS23090690K	GOC2020-1597	Failure to Use Reasonable Care	\$3,000	South State Inc.	10/10/2020	Hamilton Square, NJ	6/20/2023
Natural Gas	GS23090691K	GOC2021-0028	Did Not Properly Mark	\$3,000	NJ Natural Gas	1/14/2021	Long Branch, NJ	3/2/2023
Natural Gas	GS23090692K	GOC2021-0406	Did Not Properly Mark	\$3,000	South Jersey Gas	4/17/2021	Berlin, NJ	7/19/2023
Natural Gas	GS23090693K	GOC2021-1229	Did Not Properly Mark	\$3,000	NJ Natural Gas	9/23/2021	Hazlet, NJ	4/12/2023
Natural Gas	GS23090694K	GOC2021-1241	Did Not Properly Mark	\$3,000	NJ Natural Gas	9/30/2021	Oakhurst, NJ	3/23/2023
Natural Gas	GS23090695K	GOC2021-1242	Did Not Properly Mark	\$3,000	NJ Natural Gas	9/30/2021	Rumson, NJ	3/23/2023
Natural Gas	GS23090696K	GOC2021-1291	Did Not Properly Mark	\$3,000	South Jersey Gas	10/4/2021	Mantua, NJ	4/4/2023
Natural Gas	GS23090697K	GOC2021-1311	Did Not Properly Mark	\$3,000	NJ Natural Gas	10/1/2021	Rumson, NJ	3/23/2023
Natural Gas	GS23090698K	GOC2021-1321	Did Not Properly Mark	\$3,000	NJ Natural Gas	10/8/2021	Forked River, NJ	3/23/2023
Natural Gas	GS23090699K	GOC2021-1326	Did Not Properly Mark	\$3,000	NJ Natural Gas	10/12/2021	Eatontown, NJ	3/23/2023
Natural Gas	GS23090700K	GOC2021-1328	Did Not Properly Mark	\$3,000	NJ Natural Gas	10/14/2021	Rumson, NJ	3/23/2023
Natural Gas	GS23090701K	GOC2021-1329	Did Not Properly Mark	\$3,000	NJ Natural Gas	10/14/2021	Ship Bottom, NJ	3/23/2023
Natural Gas	GS23090702K	GOC2021-1617	Did Not Properly Mark	\$3,000	South Jersey Gas	12/2/2021	Williamstown, NJ	11/18/2022
Natural Gas	GS23090703K	GOC2021-1642	Did Not Properly Mark	\$3,000	NJ Natural Gas	12/14/2021	Beach Haven, NJ	4/8/2022
Natural Gas	GS23090704K	GOC2022-0006	Did Not Properly Mark	\$3,000	South Jersey Gas	1/10/2022	Stone Harbor, NJ	4/27/2022
Natural Gas	GS23090705K	GOC2022-0101	Did Not Properly Mark	\$3,000	NJ Natural Gas	2/10/2022	Keansburg, NJ	4/20/2022
Natural Gas	GS23090706K	GOC2022-0309	Did Not Properly Mark	\$3,000	South Jersey Gas	4/11/2022	Villas, NJ	2/2/2023

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Docket Nos. GS23090684K et al.

Facility Damaged	BPU Docket #	One Call Case #	Type of Violation	Penalty	Alleged Violator	Violation Date	Location	Payment Date
Natural Gas	GS23090707K	GOC2022-0378	Did Not Properly Mark	\$3,000	South Jersey Gas	4/21/2022	Cherry Hill, NJ	2/2/2023
Natural Gas	GS23090708K	GOC2022-1113	Did Not Properly Mark	\$3,000	NJ Natural Gas	9/21/2022	Laurence Harbor, NJ	9/21/2022
Total Cases: 25 Total Penalties: \$75,000								