



Agenda Date: 4/27/16
Agenda Item: VIA

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
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.GS16030260K
) et al. (see attached appendix)

Parties of Record:

- Frank Coriano**, Public Service Electric and Gas
- John Bartels**, Cablevision
- William Tappin**, South Jersey Gas
- Steve Bilo**, Carrot Top Masonry
- James Mazzella**, Riverview Paving
- Steve Weinssen**, Hidden Fence
- Ronnie Childay**, Aabco Fence
- John Burns**, Klemm Masonry
- Steven Hopely**, Hopely Fence
- Alex Belluscio**, Abcrete
- Ambar Abelar**, C&C Brothers
- Patrick Collins**, Encore Landscaping

BY THE BOARD:

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 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. N.J.S.A. 48:2-86(c). 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.

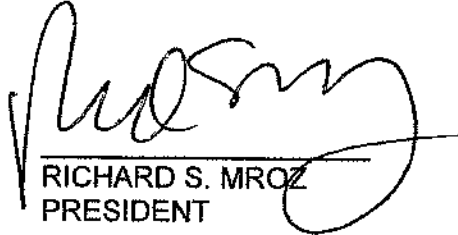
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Underground Facility Protection Act in connection with the above-referenced 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 May 7, 2016.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED

DATED: 4/27/16


BOARD OF PUBLIC UTILITIES
BY:

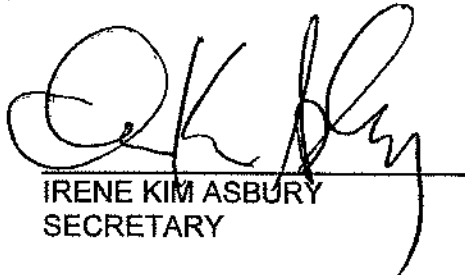

RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER

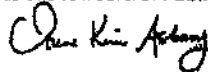

MARY ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
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 NO. GS16030260K et. al. (see attached appendix)**

SERVICE LIST

Frank Coriano
Public Service Electric and Gas
410 Silver Lake Ave.,
Edison, NJ 08817

Alex Belluscio
Abcrete
570 Petunia Lane
Whiting, NJ 08759

John Bartels
Cablevision
40 Pine St.,
Tinton Falls, NJ 07753

Ambar Abelar
C&C Brothers
210 Broadway
Long Branch, NJ 07740

William Tappin
South Jersey Gas
1 South Jersey Plaza
Folsom, NJ 08037

Patrick Collins
Encore Landscaping
354 Eisenhower Parkway
P.O. Box 472
Livingston, NJ 07039

Steve Bilo
Carrot Top Masonry
308 Suzanne Ave.,
Cape May, NJ 08204

James P. Giuliano, Director
Division of Reliability & Security
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
James.giuliano@bpu.state.nj.us

James Mazzella
Riverview Paving
13 Eagle Rock Ave.,
East Hanover, NJ 07936

James P. Kane, Esq.
Counsel's Office
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
James.kane@bpu.state.nj.us

Richard Weinszen
Hidden Fence
304 State Route 10
Randolph, NJ 07869

Ronnie Childay
Aabco Fence
279 Bergen Trpke.,
Ridgefield Park, NJ 07660

Caroline Vachier, DAG
Division of Law and Public Safety
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029
Caroline.Vachier@dol.lps.state.nj.us

John Burns
Klemm Masonry
P.O. Box 1150
Brigantine, NJ 08203

Steven Hopely
Hopely Fence
264 Columbus Dr.,
Mantua, NJ 08051

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-April VIA 2016

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage Gas	GS16030260K	GOC2015-0352	Did not properly mark	\$3,000	PSE&G		4/2/2015	Old Trenton Rd., Cranbury	2/11/2016
Damage Gas	GS16030261K	GOC2015-0699	Did not properly mark	\$3,000	PSE&G		6/11/2015	Lenape Rd., Springfield	2/11/2016
Damage Gas	GS16030262K	GOC2015-0694	Did not properly mark	\$3,000	PSE&G		6/9/2015	Fairmont Ave., Chatham	2/11/2016
Damage Gas	GS16030263K	GOC2015-0393	Did not properly mark	\$3,000	PSE&G		4/30/2015	Limewood Dr., Hamilton	2/11/2016
Damage Gas	GS16030264K	GOC2015-1361	Did not properly mark	\$3,000	PSE&G		9/23/2015	Broad Street, Bloomfield	2/11/2016
Damage Gas	GS16030265K	GOC2015-0377	Did not properly mark	\$3,000	PSE&G		4/28/2015	Bedford Rd., South Brunswick	2/12/2016
Damage Gas	GS16030266K	GOC2015-0421	Did not properly mark	\$3,000	PSE&G		4/30/2015	E. Front Street, Plainfield	2/12/2016
Damage Gas	GS16030267K	GOC2015-0778	Did not properly mark	\$3,000	PSE&G		6/25/2015	Park Ave., North Arlington	2/11/2016
Damage Cable	CS16030268K	COC2015-0064	Did not properly mark	\$1,000	Cablevision		4/29/2015	Locust Way, Spring Lake	2/2/2016
Damage Gas	GS16030269K	GOC2015-1631	Did not properly mark	\$3,000	South Jersey Gas		10/26/2015	Delmar Ct., Brigantine	2/12/2016
Damage Gas	GS16030270K	GOC2014-0571	Did not properly mark	\$3,000	South Jersey Gas		8/11/2014	Lehigh Ave., Gloucester	2/12/2016
Damage Gas	GS16030271K	GOC2015-1327	Did not properly mark	\$3,000	South Jersey Gas		9/1/2015	Fire Rd. & Corderys Dr., Egg Harbor	2/10/2016
Damage Gas	GS16030229K	GOC2015-0816	Did not properly mark	\$3,000	South Jersey Gas		6/30/2015	Leddon St., Millville	2/10/2016
Damage Gas	GS16030228K	GOC2015-0800	Did not properly mark	\$3,000	South Jersey Gas		6/17/2015	S. Broadway Pennsville	2/10/2016
Damage Gas	GS16030227K	GOC2015-0807	Did not properly mark	\$3,000	South Jersey Gas		6/23/2015	Bumt Mill Rd., Voorhees	2/10/2016
Damage Gas	GS16030226K	GOC2015-0794	Did not properly mark	\$3,000	South Jersey Gas		6/15/2015	Portland Ave., Ventnor	2/10/2016
Damage Gas	GS16030225K	GOC2015-0641	Did not properly mark	\$3,000	South Jersey Gas		5/28/2015	Oak Rd. & N. East Blvd., Vineland	2/10/2016
Damage Gas	GS16030259K	GOC2015-0159	Did not properly mark	\$3,000	South Jersey Gas		3/11/2015	Haven Ave., Ocean City	2/22/2016
Damage Gas	GS16030258K	GOC2015-1492	Did not properly mark	\$3,000	South Jersey Gas		10/9/2015	Washington Ave., Margate	3/1/2016
Damage Gas	GS16030224K	GOC2015-0243	Did not properly mark	\$3,000	South Jersey Gas		3/23/2015	Ocean St., Cape May	2/10/2016
Damage Gas	GS16030223K	GOC2015-1212	Did not properly mark	\$3,000	South Jersey Gas		8/17/2015	Meadow Lane, Evesham	2/22/2016
Damage Gas	GS16030222K	GOC2015-0619	Did not have a valid markout	\$3,000		Carrot Top Masonry	5/20/2015	Perry St., Cape May	3/1/2016
Damage Gas	GS16030221K	GOC2015-1476	Did not have a valid markout	\$3,000		Riverview Paving	10/9/2015	Pacific Ave., Jersey City	2/29/2016
Non Damage	AS16030220K	NOC2015-0084	Did not have a valid markout	\$1,000		Hidden Fence	10/21/2015	Warne Way, Washington	2/15/2016
Damage Gas	GS16030219K	GOC2015-0221	Did not have a valid markout	\$3,000		Aabco Fence	3/26/2015	Bergen Tpke., Ridgefield	2/19/2016
Damage Gas	GS16030218K	GOC2014-1073	Did not have a valid markout	\$3,000		Klemm Masonry	10/30/2014	Lincoln Dr., Brigantine	2/22/2016

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage Gas	GS16030217K	GOC2015-0798	Did not have a valid markout	\$3,000		Hopely Fence	6/7/2015	Presbyterian Ave., Atlantic City	3/2/2016
Damage Gas	GS16030216K	GOC2015-1532	Did not have a valid markout	\$3,000		Abcrete	10/13/2015	Paradise Blvd., Berkeley	2/22/2016
Damage Gas	GS16030215K	GOC2015-0535	Did not have a valid markout	\$3,000		C&C Brothers	5/13/2015	Ocean Rd., Brielle	2/29/2016
Damage Gas	GS16030214K	GOC2015-1454	Did not have a valid markout	\$3,000		Encore Landscaping	9/26/2015	William St., Little Falls	1/28/2016
Total	30			\$86,000					