



Agenda Date: 11/21/17
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. TS17101034K,
) et al.
) (see attached appendix)

Parties of Record:

- Michael Donohue, PSE&G**
- Sylvia Del Vecchio, Verizon**
- Brian Canberg, BJC General Contracting**
- David Appolonia, ACOS Energy**
- John Hildabrant, Aqua Water**
- Maria Diaz, New Jersey Natural Gas**
- Joseph Maloney, Middletown DPW**
- Elizabeth Johnsten, Fullerton Ground Maintenance**
- Nick Depoto, Elizabethtown Gas**
- William Tappin, South Jersey Gas**
- Don Bereheiko, Trimtek, LLC**
- Jay Hirtz, Effective Sign Works**
- Robert Spaulding, Excelsior Estate Homes**
- Silvia Amorim, P&R Concrete Corp.**
- Richard Mertens, All Shore Landscaping**
- Steve Vollers, Vollers Excavating**
- John Provini, Probek Construction**
- Richard Cummins, RNR Contractors, Inc.**
- Paul LaBell, Roxbury Road Department**
- Christopher Mathis, Mathis Construction**
- Arun Gupta, Envirocon, Inc.**
- Robert W. Hale, Halecon, Inc.**
- George Cholaj, MCR Services, Inc.**
- Douglas Schilke, Schilke Construction**
- Joe Filoon Jr., Seminole Construction, LLC**

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

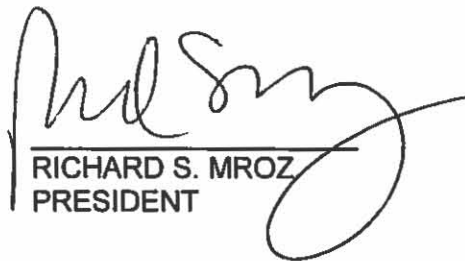
connection with the above-referenced alleged violations of the Act. It must also be noted that the acceptance of the Offers of Settlement are for settlement purposes only, and apply strictly to the specific incidents described in the Appendix. This acceptance is without prejudice as to the position of 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 December 1, 2017.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

DATED: 11/21/17

BOARD OF PUBLIC UTILITIES
BY:


RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER

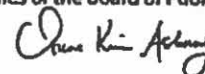

MARY-ANNA HOLDEN
COMMISSIONER


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. TS17101034K et. al. (see attached appendix)

SERVICE LIST

Michael Donohue
PSE&G
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Clifton, NJ 07011

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Elizabethtown Gas
520 Green Lane
Union , NJ 07083

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Verizon
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Montclair, NJ 07042-3399

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South Jersey Gas
1 South Jersey Plaza
Folsom, NJ 08037

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Long Branch, NJ 07740

Don Bereheiko
Trimtek, LLC
906 E. Shore Drive
Brigantine, NJ 08203

David Appolonia
ACOS Energy
505 Hamilton Avenue – Ste. 200
Linwood, NJ 08221

Jay Hirtz
Effective Sign Works
1208 Columbus Rd.
Burlington, NJ 08016

John Hildabrant
Aqua Water
2875 New Brooklyn Erial Rd.
Sicklerville, NJ 08081

Robert Spaulding
Excelsior Estate Homes
1 Morningside Dr.
Ramsey, NJ 07605

Maria Diaz
New Jersey Natural Gas
1415 Wyckoff Road
Wall, NJ 07719

Silvia Amorim
P&R Concrete Corp.
16 Mount Bethel Road
Warren, NJ 07059

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52 Kanes Lane
Middletown, NJ 07748-2594

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All Shore Landscaping
P.O. Box 458
Sea Girt, NJ 08750

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36 Berkshire Valley, Suite 1
Kenvil, NJ 07847

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Vollers Excavating
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Somerville, NJ 08876

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251 Jernee Mill Rd. Suite C
Sayerville, NJ 08872

Paul LaBell
Roxbury Road Department
1815 US Highway 46
Ledgewood, NJ 07852

Christopher Mathis
Mathis Construction
1510 County Highway No. 539
Little Egg Harbor, NJ 08030

Arun Gupta
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490 Schooleys Mountain Road
Hackettstown, NJ 07840

Robert W. Hale
Halecon, Inc.
136 Billian St.
Bridgewater, NJ 08807

George Cholaj
MCR Services, Inc.
4730 Crescent Blvd.
Pensauken, NJ 08109

Douglas Schilke
Schilke Construction
301 Valley Rd.
Hillsborough, NJ 08844

Joe Filoon Jr.
Seminole Construction, LLC
128 Bartlett Ave.
West Creek, NJ 08092

Richard Cummins
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10 Park Drive
Shamong, NJ 08088

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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- NOVEMBER VIA 2017

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Telephone	TS17101034K	TOC2016-0016	Failure to hand dig and locate	\$2,000		PSE&G	3/11/2016	Salem St., Paramus	5/16/2017
Damage, Telephone	TS17101035K	TOC2016-0028	Did not properly mark out	\$3,000	Verizon		5/13/2016	Cedar Ridge Ln., Warren	5/12/2017
Damage, Telephone	TS17101036K	TOC2016-0036	Did not properly mark out	\$3,000	Verizon		6/9/2016	N. Main St., Milltown	4/21/2017
Damage, Telephone	TS17101037K	TOC2016-0039	Did not properly mark out	\$2,000	Verizon		6/13/2016	Memorial Dr., Lodi	6/2/2017
Damage, Telephone	TS17101038K	TOC2016-0040	Did not properly mark out	\$2,000	Verizon		6/14/2016	W. Main St., Wrightstown	5/12/2017
Damage, Telephone	TS17101039K	TOC2016-0042	Did not properly mark out	\$2,000	Verizon		6/24/2016	Hudson St., Phillipsburg	5/12/2017
Non-damage	AS17101042K	NOC2016-0005	Did not have a valid markout	\$1,000		BJC General Contracting	3/11/2016	Harbor View Dr., Atlantic Highlands	6/12/2017
Non-damage	AS17101043K	NOC2016-0067	Did not have a valid markout	\$3,000		ACOS Energy	3/22/2016	Fislerville Rd., Mullica Hill	5/22/2017
Non-damage	WS17101044K	NOC2017-0006	Failure to file reports	\$3,000	Aqua Water		11/1/2015		7/27/2017
Non-damage	WS17101045K	NOC2017-0007	Failure to file reports	\$3,000	Aqua Water		8/1/2015		7/27/2017
Non-damage	WS17101046K	NOC2017-0008	Failure to report damage	\$3,000	Aqua Water		4/20/2017	New Brooklyn Erial Rd., Sicklerville	7/27/2017
Non-damage	GS17101047K	NOC2017-0018	Did not properly mark out	\$3,000	New Jersey Natural Gas		7/16/2016	Leonardville Rd., Belford	8/2/2017
Damage, Water	WS17101048K	WOC2014-0058	Did not have a valid markout	\$2,000		Middletown Twp. DPW	7/31/2014	Woodridge Ave., Middletown	6/20/2017
Damage, Gas	GS17101053K	GO2014-0237	Did not have a valid markout	\$3,000		Fullerton Ground Maintenance	6/14/2014	Stonegate Drive, Watchung	6/19/2017
Damage, Gas	GS17101054K	GOC2014-0684	Did not properly mark out	\$3,000	NJ Nautral Gas		8/21/2014	North Sussex Street, Dover	7/5/2017
Damage, Gas	GS17101058K	GOC2016-0121	Did not properly mark out	\$3,000	E'Town Gas		2/19/2016	North Broad Street, Elizabeth	5/11/2017
Damage, Gas	GS17101056K	GOC2016-0312	Did not properly mark out	\$3,000	PSE&G		4/14/2016	Elbow Lane, Burlington	8/22/2017
Damage, Gas	GS17101050K	GOC2016-0317	Did not properly mark out	\$3,000	PSE&G		4/12/2016	Bergen Blvd., West Patterson	5/17/2017
Damage, Gas	GS17101051K	GO2016-0342	Did not properly mark out	\$3,000	SJ Gas	J.F. Kiely	4/5/2016	E. 24th Street, Ocean City	8/21/2017
Damage, Gas	GS17101052K	GOC2016-0414	Did not have a valid markout	\$3,000		Trimtek LLC	4/19/2016	Hagen Road, Brigantine	6/13/2017
Damage, Gas	GS17101055K	GOC2016-0502	Did not properly mark out	\$3,000	E'Town Gas		5/17/2016	Hillside Avenue, Hillside	5/11/2017
Damage, Gas	GS17101059K	GOC2016-0539	Did not properly mark out	\$3,000	E'Town Gas		5/24/2016	Boulevard, Westfield	5/11/2016
Damage, Gas	GS17101057K	GOC2016-0543	Did not properly mark out	\$3,000	E'Town Gas		5/31/2016	W. Broad Street, Westfield	5/11/2017
Damage, Gas	GS17101062K	GOC2016-0545	Did not have a valid markout	\$3,000		Effective Sign Works	5/12/2016	W. Broad Street, Burlington	6/23/2017
Damage, Gas	GS17101061K	GOC2016-0691	Did not have valid markout	\$3,000		Excelsior Estate Homes	6/8/2016	Orchard Lane, Franklin Lakes	6/16/2017
Damage, Gas	GS17101060K	GOC2016-0709	Did not properly mark out	\$3,000	E'Town Gas		6/21/2016	North Avenue West, Cranford	5/11/2016
Damage, Gas	GS17101088K	GOC2016-0720	Did not properly mark out	\$3,000	PSE&G		6/20/2016	Nurko Road, Millstone	8/22/2017

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Bureau of One Call - Settlements -APPENDIX- NOVEMBER VIA 2017

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS17101089K	GOC2016-0734	Did not properly mark out	\$3,000	SJ Gas		6/22/2016	Route 38, Medford	6/16/2017
Damage, Gas	GS17101090K	GOC2016-0760	Did not properly mark out	\$3,000	PSE&G		6/21/2016	Tannery Road, Branchburg	7/24/2017
Damage, Gas	GS17101113K	GOC2016-0778	Did not properly mark out	\$3,000	PSE&G		6/26/2016	N. Fairview Avenue, Paramus	5/19/2017
Damage, Gas	GS17101091K	GOC2016-0794	Did not hand dig within 2 ft of marked facility	\$3,000		P & R Concrete Corp.	6/21/2016	Melody Lane, Lavallette	6/19/2017
Damage, Gas	GS17101092K	GOC2016-0798	Did not properly mark out	\$3,000	NJ Neutral Gas		6/23/2016	Victory Court, Victory Gardens	3/5/2017
Damage, Gas	GS17101093K	GOC2016-0806	Did not have valid markout	\$3,000		All Shore Landscaping	6/30/2016	New York Blvd., Sea Girt	9/26/2017
Damage, Gas	GS17101094K	GOC2016-0879	Carelessness	\$3,000		Vollers Excavating	7/19/2016	S. Finley Avenue, Bernards Township	9/28/2017
Damage, Gas	GS17101095K	GOC2016-0894	Did not properly mark out	\$3,000	PSE&G		7/16/2016	J.F. Kennedy Blvd., Jersey City	6/26/2017
Damage, Gas	GS17101096K	GOC2016-0904	Did not have a valid markout	\$3,000		Probek Construction Corp.	7/25/2016	Lincoln Street, Linden	9/28/2017
Damage, Gas	GS17101097K	GOC2016-0935	Did not hand dig within 2 ft of marked facility	\$3,000		RNR Contractors, Inc.	7/26/2016	Lincoln Drive W, Evesham Township	
Damage, Gas	GS17101098K	GOC2016-0937	Did not properly mark out	\$3,000	PSE&G		7/27/2016	Stoneham Drive, Livingston	5/24/2017
Damage, Gas	GS17101099K	GOC2016-0967	Did not properly mark out	\$3,000	PSE&G		7/8/2016	Rosslee Avenue, North Haledon	8/22/2017
Damage, Gas	GS17101100K	GOC2016-0977	Did not properly mark out	\$3,000	PSE&G		7/29/2016	Elmwood Avenue, Maplewood	5/24/2017
Damage, Gas	GS17101101K	GOC2016-1036	Did not hand dig within 2 ft of marked facility	\$3,000		Roxbury Water Dept.	8/4/2016	E. Main Street - Drake In, Roxbury Township	7/25/2017
Damage, Gas	GS17101102K	GOC2016-1062	Failure to use reasonable care	\$3,000		Mathis Construction	8/1/2016	Valley Ave., Hammonton	9/26/2017
Damage, Gas	GS17101103K	GOC2016-1074	Did not properly mark out	\$3,000	PSE&G		8/10/2016	N. Maple Ave., Bernardsville	5/17/2017
Damage, Gas	GS17101104K	GOC2016-1072	Did not have valid markout	\$3,000		Envirocon, Inc	8/4/2016	Schraalenburgh Rd., Harrington Park	6/12/2017
Damage, Gas	GS17101105K	GOC2016-1088	Did not properly mark out	\$3,000	PSE&G		8/17/2016	CR-573, Barrington	8/2/2017
Damage, Gas	GS17101106K	GOC2016-1099	Did not properly mark out	\$3,000	PSE&G		8/3/2016	Rt. 28 Bridgewater	6/27/2017
Damage, Gas	GS17101107K	GOC2016-1101	Did not hand dig within 2 ft of marked facility	\$3,000		Halecon, Inc	8/8/2016	Triangle Road, Hillsborough	5/9/2017
Damage, Gas	GS17101108K	GOC2016-1105	Did not properly mark out	\$3,000	PSE&G		8/10/2016	West 8th Street, Plainfield	3/3/2017
Damage, Gas	GS17101109K	GOC2016-1107	Did not have valid markout	\$3,000		MCR Services, Inc.	8/16/2016	US Highway 22, North Plainfield	6/12/2017
Damage, Gas	GS17101110K	GOC2016-1112	Failure to use reasonable care	\$3,000		Vollers Excavating	8/24/2017	George Street, Plainfield	9/28/2017
Damage, Gas	GS17101111K	GOC2016-1123	Did not properly mark out	\$3,000	PSE&G		8/22/2017	Heywood Ave., Orange	7/18/2017
Damage, Gas	GS17101112K	GOC2016-1131	Did not have proper market out at time of exc	\$3,000	PSE&G	Schilke Construction	8/4/2016	Augusta Street, South Amboy	9/29/2017
Damage, Gas	GS16050481K	GOC2014-0763	Did not have proper market out at time of exc	\$3,000		Seminole Construction, LLC	9/9/2014	Northstream Parkway, Point Pleasant Beach	5/18/2016
Damage, Gas	GS16050480K	GOC2014-0685	Did not have proper market out at time of exc	\$3,000		Seminole Construction, LLC	8/21/2014	Anderson Dr., Spray Beach	5/18/2016

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- NOVEMBER VIA 2017

Total	54	\$155,000	
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