



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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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. GS12050391K,  
et al. (see attached appendix)

Parties of Record:

- James Glozzy Vice President & General Manager, United Water New Jersey**
- Mr. Falusi, Falusi Electric**
- Craig Lynch, Vice President, New Jersey Natural Gas Company**
- Gerard Cipriano, RCF Enterprises**
- Sean Cashman, Cashman Landscape Management**
- Ricky Harding, Elizabethtown Gas Co.**
- Christopher La Rossa, Public Service Electric and Gas**
- Joseph Gaccione, G. Frank LLC**

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

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.

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<sup>1</sup> Commissioner Joseph L. Fiordaliso did not participate.

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 One-Call Damage Prevention System ("the System") coordinates communication and responsive action between these two groups of persons. N.J.S.A. 48:2-80, -82.

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 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. 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 these 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.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED

This Order shall be effective on July 27, 2012.

DATED: 7/18/12

BOARD OF PUBLIC UTILITIES  
BY:

  
ROBERT M. HANNA  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

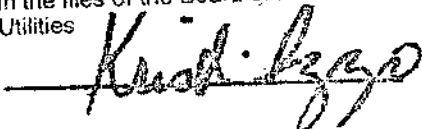
  
NICHOLAS ASSELTA  
COMMISSIONER

  
MARY-ANNA HOLDEN  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
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. GS12050391K et al. (see attached appendix)**

**SERVICE LIST**

**Parties of Record**

James Glozzy Vice President & General  
Manager  
United Water New Jersey  
60 DeVoe Place  
Hackensack NJ 07601

Mr. Falusi  
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Union NJ 07083

Christopher La Rossa  
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124 Halsey Street 5<sup>th</sup> floor  
Newark NJ 0710

**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-July 2012**

Damage Type	BPU Docket No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage Gas	GS12050391K	GOC2009-0009	Failure to hand dig and locate	\$3,000		United Water	04/22/09	5 Shady Side Ave, Dumont	03/01/11
Damage Gas	GS12050392K	GOC2009-0010	Did not have a valid markout	\$3,000		Falusi Electric	05/21/09	Willow Brook Ave, Rumson	01/05/11
Damage Gas	GS12050393K	GOC2010-0014	Did not properly mark out	\$3,000	NJ Natural Gas		01/07/10	800 Lacey Forked River	11/09/11
Damage Gas	GS12050394K	GOC2009-0032	Did not have a valid markout	\$3,000		RFC Enterprises	07/15/09	563 Tempewick Rd, Harding	01/06/12
Damage Gas	GS12050395K	GOC2010-0041	Did not have a valid markout	\$3,000		Cashman Landscape Management	04/30/10	2 Mendham Common, Mendham	07/15/10
Damage Water	GS12050396K	GOC2010-0044	Did not properly mark out	\$3,000	Elizabethtown Gas		04/19/10	136 Port Ave, Elizabeth	07/29/10
Damage Gas	GS12050397K	GOC2010-0045	Did not properly mark out	\$3,000	Elizabethtown Gas		04/20/10	970 New Brunswick Ave, Rahway	09/29/11
Non Damage	GS12050398K	GOC2010-0079	Did not properly mark out	\$3,000	Public Service Electric and Gas Co.		07/15/10	Paterson Hamburg Turnpike, Pompton Lakes	12/12/11
Non Damage	GS12050399K	GOC2010-0084	Did not properly mark out	\$3,000	Public Service Electric and Gas Co.		08/05/10	Intersection Hamburg and Pompton, Wayne	11/07/11
Non Damage	GS12050400K	GOC2010-0107	Did not have a valid markout	\$3,000		G Frank LLC	08/09/10	230 Brighton Rd, Clifton	03/23/12