IN THE MATTER OF ALLEGED VIOLATIONS OF THE
UNDERGROUND FACILITY PROTECTION ACT,
N.J.S.A. 48:2-73 ET. SEQ.

Parties of Record:

Frank Coriano, Public Service Electric and Gas
William Tappin, South Jersey Gas
Ralph Hillmer, Jersey Central Power & Light
Matthew White, Jo Mar Masonry
Marjorie Broomall, Bluefin Services
Bryan Malcolm, Perfect Touch
Joe Uzzolino, Burke Contracting LLC
Michael Hillis, The Hillis Group LLC
Ronald Brancato, Brancato Landscaping
Robert Watson, Apex Development & Property Management
Robert A. Napier, Vineland Electric
Greg Fondacaro, Ninsa Vinyl Fence
Jennifer Spencer, CM Dicocco
Nino Colonelli, Colonelli Construction
Elaine Gedeiko, Yaboo Fence

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 October 3, 2016.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

DATED: 9/23/16

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:

KENNETH J. SHEEHAN
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

KENDRICK J. SHEEHAN
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. GS16080770K et al. (see attached appendix)

SERVICE LIST

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

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

Ralph Hillmer
Jersey Central Power and Light
300 Madison Ave.
P.O. Box 1911
Morristown, NJ 07962

Matthew White
Jo Mar Masonary
209 Fresh Ponds Rd.
Jamesburg, NJ 08831

Marjorie Broomall
Bluefin Services
196 Quigley Blvd.
New Castle, DE 19720

Bryan Malcolm
Perfect Touch
270 Jessup Rd.
West Deptford, NJ 08086

Joe Uzzolino
Burke Contracting LLC
3408 Sunset Ave.
Ocean Township, NJ 07712

Michael Hillis
The Hillis Group LLC
2100 Wood Ave.
Easton, PA 18042

Ronald Brancato
Brancato Landscaping
105 Ohlson Ave.
Nutley, NJ 07110

Robert Watson
Apex Development & Property Management
108 Rte. 70
Medford, NJ 08055

Robert A. Napier
Vineland Electric
415 North West Ave.
Vineland, NJ 08360

Greg Fondacaro
Ninsa Vinyl Fence
125 Lincoln Dr.
Hammonton, NJ 08037

Jennifer Spencer
CM Dicocco
P.O. Box 465, Rt. 579
Pennington, NJ 08534

Nino Colonnelli
Colonnelli Construction
409 South River St.
Hackensack, NJ 07601

Elaine Gedeiko
Yaboo Fence
95 West Nyack Way.
West Nyack, NJ 10994
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<th>One Call Case No.</th>
<th>Type of Violation</th>
<th>Operator</th>
<th>Excavator</th>
<th>Violation Date</th>
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