

### STATE OF NEW JERSEY

Board of Public Utilities
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Trenton, New Jersey 08625-0350
www.ni.gov/bpu/

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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 DOCKET Nos. GS17060690K, <u>et al</u> (see attached appendix)
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#### Parties of Record:

Eric Town, Atlantic Septic Simone Levato, Levato and Sons, Inc. Kenneth Mesmer Sr., K & J Masonry Michael Donohue, PSE&G Timothy Cross, Merrick Construction Christopher Lucas, Lucas Brothers Construction Dave Casamento, Over the Edge Excavating H. Randolph Furino, Furino And Sons Arturo Merino, Arturo Landscaping Robert Hopken, Montana Construction, Inc. Jeff Picinich, Suez Robert Mikell, Vericon Construction \* Tom Edwards, Transformation Enterprize, Inc. Michael Novic, Quality Contractors, LLC Charels Massoud, Brunswick Construction Company William Tappin, South Jersey Gas Richard McLaughlin, Creamer Sanzari Joint Venture Ron Fiorilli, All County Sewer Nelson Carty, N. Carty and Sons Contracting, Corp. Joseph Artale, C. Abbonizio Contractors Steven Pierce, Millville Water Department John Pignataro, Cardinal Landscaping Services, LLC Joseph Zingariello, Zingariello and Sons Peter Tenore, Mueller & Tenore Contractor Kevin McAndrew, Landscape Maintenance Service Richard Leahey, Township of Middletown Sewer Department Brian Shernce, BTS Landscaping Michael Crescenzo, Arawak Paving Milton Nicholas, Kline Construction L. Peter Liberatore, Bednar Landscaping

L. John Greco, Hale Built Stuart Hartnett, Gray Supply Dawson Smith, Lawn Gevity Landscaping Paula James, Atlantic City Electric Steven Zeuli, RD Zeuli, Inc.

BY THE BOARD:1

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

2

<sup>&</sup>lt;sup>1</sup> Commissioner Dianne Solomon did not participate.

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 <u>HEREBY FINDS</u> these Offers of Settlement to be reasonable and in the public interest, and <u>HEREBY ACCEPTS</u> 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 30, 2017.

#### NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

RICHARD S. MROZ

PRESIDENT

DATED: 10/20/17

BOARD OF PUBLIC UTILITIES

BY.

JOSEPH L. FIORDALISO

COMMISSIONER

Jay Anal

COMMISSIONER

JPEŇDRA J. CHIVUKULA COMMISSIONED

COMMISSIONER

ATTEST:

IRENE KIM ASBURY

SECRETAY

## 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. GS17060690K et al. (see attached appendix)

#### SERVICE LIST

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Simone Levato Levato and Sons, Inc. 176 Morris St. Morristown, NJ 07960

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Michael Donohue PSE&G 240 Kuller Road Clifton, NJ 07011

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Christopher Lucas
Lucas Brothers Construction
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Morganville, NJ 07751

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Riverdale, NJ 07457

H. Randolph Furino Furino And Sons 66 Columbia Road Branchburg, NJ 08876

Juan Urro United Terrain Group 875 River Road Piscataway, NJ 08854 Arturo Merino Arturo Landscaping PO Box 283 Linwood, NJ 08221

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Jeff Picinich Suez 60 De Voe Place Hackensack, NJ 07601

Robert Mikell Vericon Construction 1063 Route 22 Mountainside, NJ 07092

Tom Edwards Transformation Enterprize, Inc. 601 Clarks Landing Road Egg Harbor City, NJ 08215

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Charels Massoud Brunswick Construction Company PO Box 476, 135 Major Road Dayton, NJ 08810

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

Richard McLaughlin Creamer Sanzari Joint Venture 101 Broadway Hackensack, NJ 07601

Ron Fiorilli All County Sewer 10 Bonnell Street Chatham, NJ 07928

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Millville, NJ 08332

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Richard Leahey Township of Middletown Sewer Department PO Box 205, 100 Beverly Way Belford, NJ 07718

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Dawson Smith Lawn Gevity Landscaping 410 Absecon Terrace Tuckerton, NJ 08087

Paula James Atlantic City Electric 5100 Harding Highway Mays Landing, NJ 08330

Steven Zeuli RD Zeuli, Inc. 288 Pineage Drive West Berlin, NJ 08091

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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- OCTOBER 20 VIA 2017

Demage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excevator	Violation Date	Description/Location	Payment Raceived
Damage, Telephone	GS17060690K	GOC2014-0292	Did not have a valid markout	\$3,000		Atlantic Septic	6/9/2014	Wesickman Dr., Shamong	5/29/2017
Damage, Gas	G\$17060691K	GOC2016-0024	Did not have a valid markout	\$3,000		Levato and Sons, Inc.	1/20/2016	Meyersville Rd., Chatham	7/27/2016
Damage, Gas	GS17060692K	GOC2016-0210	Did not have a valid markout	\$3,000		K&J Masonry	3/22/2016	Essex Ave., West Deptford Twp.	5/22/2017
Damage, Gas	GS17060693K	GOC2016-0311	Did not properly mark out		PSE&G		4/12/2016	Hudson Ave., West New York	5/5/2017
Damage, Gas	GS17060694K	GOC2016-0316	Did not properly mark out		PSE&G		4/20/2016	Cedar Ave., Maywood	5/16/2017
Damage, Gas	GS17060695K	GOC2016-0324	Did not have a valid markout	\$3,000		Merrick Construction	4/5/2016	Navesink Ave., Rumson	5/25/2017
Damage, Gas	GS17060696K	GOC2016-0331	Did not have a valid markout	\$3,000		Lucas Brothers Construction	4/11/2016	County Rte. 547 and Bry Ave., Howell, NJ	5/24/2017
Damage, Gas	GS17060697K	GOC2016-0363	Did not have a valid markout	\$3,000		Over the Edge Excavating	4/19/2016	North Pleasant Ave., Ridgewood	5/16/2017
Damage, Gas	GS17060698K	GOC2016-051B	Failure to use reasonable care	\$3,000		Furino & Sons	5/18/2016	Park Ave., Florham Park	5/25/2017
Damage, Gas	GS17060699L	GOC2016-0592		\$3,000		United Terrain Group	5/31/2016	New Durham Rd., Metuchen	5/13/2017
Damage, Ges	GT17060700K	GOC2016-0603	· · · · · · · · · · · · · · · · · · ·	\$3,000		Arturo Landscaping	5/31/2016	Quimet Rd., Brigantine	4/30/2017
Damage, Gas	GS17060701K	GOC2016-0624		\$3,000	PSE&G		5/27/2016	82nd St., North Bergen	5/16/2017
Damage, Ges	GS17060702K	GOC2016-0632		\$3,000	PSE&G		6/1/2016	Kennedy Dr., Fairview	5/11/2017
Damage, Ges	GS17060703K	GOC2016-0638		\$3,000	PSE&G		6/3/2016	Cooper Landing Rd., Cherry Hilf	5/11/2017
	GS17060704K	GOC2016-0676		\$3,000	PSE&G		6/15/2016	Lincoln Ave. Maywood	5/16/2017
Damage, Gas	GS17060705K	GOC2016-0677		\$3,000		Montana Construction, Inc.	6/15/2016	Suthern Blvd., Chatham	3/29/2017
	G\$17060706K	GOC2016-0697		\$3,000	PSE&G		6/15/2016	Debow Dr., Millstone	5/3/2017
Damage, Gas	GS17070730K	GOC2016-0809	Did not have a valid markout Did not have a valid	\$3,000		Suez Water	6/27/2016	Grand Ave., Leonia	5/15/2017
	GS17070731K	GOC2016-0830		\$3,000	*	Vericon Construction	7/6/2016	Dunns Mill Rd., Bordentown	5/17/2017
	G\$17070732K	GOC2016-0847	reasonable care	\$3,000	<b></b>	Suez Water	7/6/2016	Teaneck Rd., Ridgefield Park	5/15/2017
Damage, Gas Damage,	GS17070733K	GOC2016-0898	Did not properly mark out Failure to use	\$3,000	PSE&G	Transformation	7/25/2016	Ball St., Irvington	5/5/2017
Ges Demege,	GS17070734K		reasonable care  Did not properly mark	\$3,000		Enterprize, Inc.	7/8/2016	Oakland Ave., Pleasantville	5/12/2017
Gas Damage,	GS17070735K	GOC2016-0925		\$3,000	PSE&G		7/11/2016	South Pine Ave., South Amboy	5/8/2017
_	GS17070736K	GOC2016-0927		\$3,000	PSE&G		7/13/2016	Church Ln., East Brunswick	5/8/2017
	GS17070737K	GOC2016-0970		\$3,000	PSE&G		7/14/2016	Delacy Dr., Plainfield	5/5/2017
Gas Damage,	GS17070738K	GOC2016-0973		\$3,000	PSE&G		7/20/2016	Baker Ave., South Plainfield	5/5/2017
Gas	GS17070739K	GOC2016-1012		\$3,000	PSE&G		8/2/2016	Rainbow Dr., Long Hill	5/8/2017

### 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- OCTOBER VIA 2017

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penaity	Operator	Excervator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS17070740K	GOC2016-1075	Did not properly mark out	\$3,000	PSE&G		8/12/2016	Somerset St., Long Hill	5/11/2017
Damage, Water	GS17070741K	GOC2016-1081	Did not properly mark out		PSE&G			Servana Ave. Springfield	5/8/2017
Damage, Cabie	GS17070742K	GOC2016-1103	Did not properly mark out	\$3,000	PSE&G			Dreahook Rd., Reaington	5/11/2017
Non- demage	GS17070743K	GOC2016-1109	Did not have a valid markout	\$3,000		Quality Contractors, LLC	8/17/2016	Foothill Rd., Bridgewater	5/15/2017
Damage, Water	GS17070744K	GOC2016-1110	Did not properly mark out	\$3,000	PSE&G		8/22/2016	George St., Plainfield	5/11/2017
Damage, Electric	GS17080835K	GOC2016-1135	Did not have a valid markout	\$3,000		Brunswick Construction Company	8/15/2016	Ray St. New Brunswick	5/29/2017
	GS17080836K	GOC2016-1136		\$3,000	PSE&G		8/15/2016	Main St. Sayerville	5/16/2017
Damage, Electric	GS17080837K	GOC2016-1218		\$3,000	South Jersey Gas		8/30/2016	Washington Ave., Berlin	5/18/2017
Damage, Electric	GS17080838K	GOC2016-1229	Failure to use reasonable care	\$3,000		Creamer Sanzari Joint Venture	9/1/2016	Central Ave., Caldwell	6/22/2017
Damage, Gas	GS17080839K	GOC2016-1230		\$3,000	PSE&G		9/1/2016	Washington Ave., South Amboy	5/8/2017
	G\$17080840K	GOC2016-1237	Did not properly mark out	\$3,000	PSE&G		9/6/2016	Cripps Dr., Mount Holly	5/11/2017
	GS17080841K	GOC2016-1238		\$3,000		All County Sewer	9/6/2016	Mountain Ave., New Providence	6/6/2017
	GS17080842K	GOC2016-1239		\$3,000		N. Carty and Sons Contracting, Corp.	9/7/2016	N. Midland Ave., Keamy	5/15/2017
	GS17080843K	GOC2016-1240		\$3,000	PSE&G		9/7/2016	Mershon Ln., Plainsboro	5/11/2017
Damage, Gas	GS17080844K	GOC2016-1241		\$3,000	PSE&G		9/7/2016	N. Finley Ave., Bernards	5/17/2017
Damage, Ges Damage,	GS17080845K	GOC2016-1263	Did not properly mark out Did not properly mark	\$3,000	PSE&G		9/14/2016	E. Olive St., Westville	5/10/2017
	GS17080846K	GOC2016-1269		\$3,000	PSE&G		9/8/2016	Cheshire Ln., Ringwood	5/11/2017
1	GS17080847K	GOC2016-1270		\$3,000	PSE&G	C. Abbonizio	9/12/2016	Andrew Ave., Oakland	5/9/2017
	GS17080848K		reasonable care Failure to use	\$3,000	2	Contractors Millville Water	9/16/2016	Riverton Rd., Cinnaminson	5/15/2017
Ges Demage,	GS17080849K	GOC2016-1281	reasonable care  Did not properly mark	\$3,000		Department	9/8/2016	Hillside Ave., Millville	6/28/2017
Ges Damage,	GS17080876K	GOC2016-1347	• •	\$3,000	PSE&G	<u> </u>	9/16/2016	Main St., South Amboy	5/8/2017
	GS17080877K	GOC2016-1349		\$3,000	PSE&G		9/28/2016	2nd St., Plainfield Chestnut Ridge Rd.,	5/5/2017
	GS17080878K	GOC2016-1354		\$3,000	PSE&G		9/8/2016	Montvale	5/16/2017
	GS17080881K	GOC2016-1355		\$3,000	PSE&G	Cardinal Landscaping	9/21/2016	Kinderkamack Rd., Emerson	5/19/2017
Gas Damaga,	GS17080880K	GOC2016-1360		\$3,000		Services, LLC	9/28/2016	Buttonwood Ln., Chatham Washington Corner Rd.,	6/13/2017
Gas Damage,	GS17080879K	GOC2016-1361		\$3,000		Zingarello and Sons	9/28/2016	Bernardsville	5/11/2017
Gas	GS17080882K	GOC2016-1362		\$3,000	PSE&G	<u> </u>	9/29/2016	2nd St., Plainfield	5/5/2017

#### 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- OCTOBER VIA 2017

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator <sub>.</sub>	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS17080883K	GOC2016-1366	Failure to use reasonable care	\$3,000		Creamer Sanzari Joint Venture	9/22/2016	Cleveland Ave., Highland Park	6/15/2017
Damage, Gas			Did not properly mark out		PSE&G		9/26/2016	Manchester Ave., Haledon	5/9/2017
Damage, Gas	GS17080885K	GOC2016-1377	Did not properly mark out	\$3,000	PSE&G		9/29/2016	Pleasant Valley Way, West Orange	5/8/2017
Damage, Gas	GS17080886K	GOC2016-1378	Did not properly mark out	\$3,000	PSE&G		8/3/2016	Route 28, Bridgewater	5/5/2017
Damege, Gas	GS17080887K	GOC2016-1387	Did not properly mark out	\$3,000	South Jersey Gas		9/20/2016	Commonwealth Ave., Upper Township	6/2/2017
Damage, Gas	GS17080890K	GOC2016-1392	Did not properly mark out	\$3,000	South Jersey Gas		9/23/2016	Commonwealth Ave., Upper Township	6/2/2017
Damage, Gas	GS17080889K	GOC2016-1393	Did not properly mark out	\$3,000	South Jersey Gas		9/23/2016	Pleasure Ave., Sea Isle City	6/2/2017
Damage, Gas	GS17080891K	GOC2016-1404	Did not have a valid markout	\$3,000		Mueller & Tenore Contractor	9/28/2016	Atlantic Ave., Wall	6/6/2017
Damage, Cable	CS17090953K	ł i	Did not have a valid markout	<b>\$</b> 2,000		Landscape Maintenance Service	9/8/2015	Versailles Ct., Trenton	7/17/2017
Damage, Cable	CS17090954K		Did not have a valid markout	\$1,000		Township of Middletown	3/12/2016	Maxum Ct., Middletown	7/20/2017
	CS17090955K		Did not have a valid markout	\$1,000		BTS Landscaping	5/31/2016	Loantaka Ln., Morristown	7/20/2017
	CS17090956K	COC2016-0104	Failure to use reasonable care	\$3,000		Arawak Paving	4/14/2016	Grant Circle, Washington	7/21/2017
Damage, Cable	CS17090957K	COC2016-0113	Failure to use reasonable care	\$3,000		Kline Construction	6/7/2016	Barnsboro Rd., Bldg. T, Washington	6/13/2017
Demage, Cabie	CS17090958K	COC2016-0133	Failure to use reasonable care	\$2,000		South Jersey Gas	6/3/2016	Rolling Ln., Cherry Hill	6/8/2017
Damage, Cable	CS17090959K	COC2016-0166		\$3,000		Bednar Landscaping	5/10/2016	Cedar Ct., Boonton	5/31/2017
Damage, Cable	CS17090960K	COC2016-0249		\$3,000		Hale Built	8/3/2016	Bradford Ln. & Wescott Blwd. Hopewell	6/28/2017
	ES17090961K	EOC2016-0040		\$3,000		Gray Supply	4/8/2016	Rogerene Way, Landing	7/31/2017
	ES17090962K		Failure to use reasonable care	\$3,000		Kline Construction	1/6/2016	Washington Way, Tabernacle	6/13/2017
	ES17090963K	EOC2016-0074		\$3,000		Lawn Gevity Landscaping	2/26/2016	East 4th St., Beach Haven	5/13/2017
	ES17090964K	EOC2016-0077		\$3,000	Atlantic City Electric		3/22/2016	Fislerville Rd., Mullica Hill	5/31/2017
Damage, Electric	ES17090965K	EOC2016-0078		\$3,000	Atlantic City Electric		3/31/2016	Solar Way, Cape May Court House	5/31/2017
	ES17090966K	EOC2016-0090	Did not properly mark out Did not have a valid	\$2,000	Atlantic City Electric		2/18/2016	Shipmaster Dr., Brigantine	5/31/2017
Damage, Electric	ES17090967K	EOC2014-0145		\$3,000		RD Zeuli, Inc.	8/20/2014	Winslow Homer Way, Mariton	6/15/2017
Total	77			\$224,000			<del> </del>		