



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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[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 to -91 )  
)  
)

ORDER ACCEPTING )  
SETTLEMENTS )  
  
DOCKET NOS. GS18091030K, )  
et al. (see attached appendix)

**Parties of Record:**

- Jamie Donatiello**, Public Service Electric & Gas Company
- Michael Sweeney**, Verde Electric Maintenance Corporation
- Ken Scharff**, New Jersey American Water Company
- Bart Tirro**, AJ Water Pump Service, Inc.
- Eric Brauchie**, Eric Brauchie Lawn Services, LLC
- Jovan Coleski**, Coleski Construction
- Peter Woodard**, Accurate Tank Testing, LLC
- Nicholas Forcellati**, Forcellati Bros., Inc.
- Mechelle Walsh**, Osmose Utilities Services, Inc.
- Claudine Campbell-Whitehead**, Rockland Electric Company
- Paula M. James**, Atlantic City Electric Company
- Tom Taylor**, Henkels & McCoy, Inc.
- John J. Janis, Jr.**, Butler Sign Company
- Drew Cowley**, Cowleys Termite & Pest Services, Inc.
- Elizabeth Conrad**, LC Equipment, Inc. (Zebra Striping and Signs, LLC)
- William C. O'Brien**, Affordable Paving Contractors, Inc.
- Stacy A. Mitchell, Esq.**, South Jersey Gas Company
- Patricia Golino, Secretary**, Carteret Elks #2235
- Rudolph Gnehm, Superintendent**, Midland Park DPW
- Maria Rodriguez**, Artstone, Inc.
- Hasan Akkulak**, North Star Home Improvement
- Beth Davis**, National Fence Systems, Inc.
- Donald Richards**, Jersey Central Power & Light Company
- Caroline Giovannetti, Esq.**, American Residential Services
- James Henkel**, A.J. Perri, Inc.

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 ("Act") pursuant to the provisions set forth in N.J.S.A.

<sup>1</sup> Commissioner Robert M. Gordon recused himself due to a potential conflict of interest and as such took no part in the discussion of this matter.

48:2-73 to -91. The primary purpose of the Act is to establish the One-Call Damage Prevention System ("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 Act in connection with the above-referenced alleged violations. 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

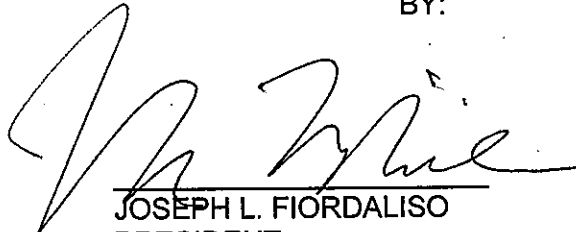
described in the Appendix. This acceptance is without prejudice as to the position of the State of New Jersey or any agency or subdivision thereof if other violations are present, now or in the future.

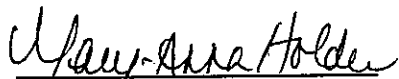
This Order shall be effective on November 29, 2018.

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

DATED: 11/19/18

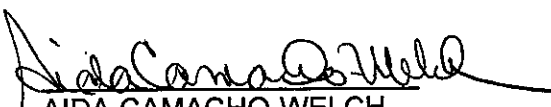
BOARD OF PUBLIC UTILITIES  
BY:

  
\_\_\_\_\_  
JOSEPH L. FIORDALISO  
PRESIDENT

  
\_\_\_\_\_  
MARY-ANNA HOLDEN  
COMMISSIONER

  
\_\_\_\_\_  
DIANNE SOLOMON  
COMMISSIONER

  
\_\_\_\_\_  
UPENDRA J. CHIVUKULA  
COMMISSIONER

ATTEST:   
\_\_\_\_\_  
AIDA CAMACHO-WELCH  
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 NOS. GS18091030K, et. al. (see attached appendix)**

SERVICE LIST

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IN THE MATTER OF: ALLEGED VIOLATIONS OF THE UNDERGROUND  
 FACILITY PROTECTION ACT, N.J.S.A. 48:2-73 to -91 ORDER ACCEPTING  
 SETTLEMENTS Bureau of One Call - Settlements - APPENDIX-November 19, 2018

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS18091030K	GOC2016-0299	Did not properly mark out	\$3,000	PSE&G		04/04/16	Newark, NJ	08/10/2018
Damage, Gas	GS18091031K	GOC2016-1737	Did not properly mark out	\$3,000	PSE&G		11/23/16	Irvington, NJ	08/10/2018
Damage, Gas	GS18091032K	GOC2016-1830	Did not properly mark out	\$3,000	PSE&G		12/14/2016	Hasbrouck Heights, NJ	07/31/2018
Damage, Gas	GS18091033K	GOC2016-0151	Did not properly mark out	\$3,000	PSE&G		02/27/2017	Saddle Brook, NJ	07/31/2018
Damage, Gas	GS18091035K	GOC2016-1739	Did not properly mark out	\$3,000	PSE&G		11/28/2016	East Windsor, NJ	08/09/2018
Damage, Gas	GS18091036K	GOC2016-0744	Did not properly mark out	\$3,000	PSE&G		06/06/2016	Old Bridge, NJ	08/07/2018
Damage, Gas	GS18091029K	GOC2016-1011	Did not properly mark out	\$3,000	PSE&G		08/06/2016	Long Hill, NJ	08/09/2018
Damage, Gas	GS18091027K	GOC2015-0218	Did not have valid mark out	\$3,000	PSE&G		03/24/2015	Moonachie, NJ	07/19/2018
Damage, Gas	GS18091028K	GOC2015-1178	Did not have valid mark out	\$3,000	PSE&G		08/11/2015	New Brunswick, NJ	08/07/2018
Damage, Gas	GS18091026L	GOC2015-1291	Did not have valid mark out	\$3,000	PSE&G		09/10/2015	Union City, NJ	08/08/2018
Damage, Gas	GS18091025K	GOC2016-0233	Did not properly mark out	\$3,000	PSE&G		03/23/2016	Manville, NJ	08/08/2018
Damage, Gas	GS18091024K	GOC2016-0235	Did not properly mark out	\$3,000	PSE&G		03/30/2016	Summit, NJ	08/09/2018
Damage, Gas	GS18091034K	GOC2016-1740	Did not properly mark out	\$3,000	PSE&G		08/07/2018	Haledon, NJ	08/07/2018
Damage, Gas	GS18091038K	GOC2016-0622	Did not properly mark out	\$3,000	PSE&G		05/26/2016	Jersey City, NJ	08/18/2018
Damage, Gas	GS18091039K	GOC2016-0695	Did not properly mark out	\$3,000	PSE&G		06/13/2016	Morristown, NJ	03/09/2018
Damage, Gas	GS18091040K	GOC2016-1017	Did not properly mark out	\$3,000	PSE&G		08/04/2016	Long Hill, NJ	04/09/2018
Damage, Gas	GS18091041K	GOC2016-1020	Did not properly mark out	\$3,000	PSE&G		08/05/2016	Bernardsville, NJ	03/09/2016
Damage, Gas	GS18091042K	GOC2016-1612	Did not properly mark out	\$3,000	PSE&G		10/31/2016	Plainsboro, NJ	08/09/2018
Damage, Gas	GS18091043K	GOC2016-1717	Did not properly mark out	\$3,000	PSE&G		11/22/16	Millburn, NJ	08/09/2018
Damage, Gas	GS18091044K	GOC2016-1719	Did not have valid mark out	\$3,000		Verde Electric Maintenance Corp.	11/03/2016	West Milford, NJ	08/20/2018
Damage, Water	WS18091045K	GOC2017-0019	Did not properly mark out	\$3,000	NJ American Water Company		03/20/2017	Penns Grove, NJ	10/10/18
Damage, Gas	WS18091046K	GOC2017-0088	Did not have a valid mark out	\$3,000		Als Pump Service	01/28/2017	Hammonton, NJ	8/24/2018
Damage, Gas	GS18091047K	GOC2016-0610	Did not have valid mark out	\$3,000		Eric Brauchie Lawn Services, LLV	05/24/2016	Pine Brook, NJ	8/14/2018
Damage, Gas	GS18091048K	GOC2016-1581	Did not have valid mark out	\$3,000		Coleski Contractors, Inc.	10/19/2016	Ridgewood, NJ	08/15/2018
Damage, Gas	GS18091049K	GOC2016-0620	Did not have valid mark out	\$3,000		Accurate Tank Testing LLC	05/25/2016	East Hanover, NJ	09/07/2018
Damage, Gas	GS18091050K	GOC2015-1258	Did not have valid mark out	\$3,000		Forcellati Bros., Inc.	08/29/2015	Englewood, NJ	08/16/2018
Damage, None	WS18091085K	NOC2018-0073	Did not properly mark out	\$3,000	NJ American Water Company		06/14/2018	Voorhees, NJ	07/18/2018

IN THE MATTER OF: ALLEGED VIOLATIONS OF THE UNDERGROUND  
 FACILITY PROTECTION ACT, N.J.S.A. 48:2-73 to -91 ORDER ACCEPTING  
 SETTLEMENTS Bureau of One Call - Settlements - APPENDIX-November 19, 2018

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, None	AS18091086K	NOC2018-0011	Did not have valid mark out	\$3,000		Osmose Utilities Service, Inc.	05/01/2018	Hopewell, NJ	09/06/2018
Damage, None	WS18091087K	NOC2018-0075	Did not properly mark out	\$3,000	NJ American Water Company		06/05/2018	Somerdale, NJ	07/08/2018
Damage, None	WS18091088K	NOC2018-0076	Did not properly mark out	\$3,000	NJ American Water Company		06/08/2018	Haddonfield, NJ	07/18/2018
Damage, None	ES18091089K	NOC2018-0077	Did not properly mark out	\$3,000	Rockland Electric		06/07/2018	Saddle River, NJ	07/03/2018
Damage, None	ES18091090K	NOC2018-0078	Did not properly mark out	\$3,000	Rockland Electric		06/15/2018	Upper Saddle River, NJ	07/03/2018
Damage, None	ES18091091K	NOC2018-0079	Did not properly mark out	\$3,000	Rockland Electric		06/05/2018	Franklin Lakes, NJ	07/03/2018
Damage, None	ES18091084K	NOC2018-0080	Did not properly mark out	\$3,000	Rockland Electric		06/07/2018	Wyckoff, NJ	07/03/2018
Damage, None	ES18091083K	NOC2018-0081	Did not properly mark out	\$3,000	Atlantic City Electric		06/07/2018	Long Beach, NJ	06/27/2018
Damage, None	ES18091082K	NOC2018-0082	Did not properly mark out	\$3,000	Atlantic City Electric		06/02/2018	Gloucester Twp., NJ	06/27/2018
Damage, None	ES18091081K	NOC2018-0083	Did not properly mark out	\$3,000	Atlantic City Electric		06/14/2018	Washington, NJ	06/29/2018
Damage, None	ES18091080K	NOC2018-0084	Did not properly mark out	\$3,000	Atlantic City Electric		06/12/2018	Washington, NJ	06/27/2018
Damage, None	ES18091079K	NOC2018-0085	Did not properly mark out	\$3,000	Atlantic City Electric		06/07/2018	Long Beach, NJ	06/27/2018
Damage, Gas	GS18091074K	GOC2016-1473	Did not have valid mark out	\$3,000		Henkels & McCoy, Inc.	10/12/2016	Gloucester Twp., NJ	09/12/2018
Damage, Gas	GS18091073K	GOC2016-0758	Did not have valid mark out	\$3,000		Butler Sign Company	06/17/2016	South Orange, NJ	09/11/2018
Damage, Gas	GS18091071K	GOC2017-0396	Did not have valid mark out	\$3,000		Cowleys Termite & Pest Control Services, Inc.	04/19/2017	Holmdel, NJ	09/01/2018
Damage, None	AS18091072K	NOC2017-0086	Did not have valid mark out	\$1,000		Zebra Striping & Signs, LLC (LC Equipment Inc.)	05/25/2017	Washington, NJ	08/20/2018
Damage, Gas	GS18091070K	GOC2015-0653	Did not have valid mark out	\$3,000		Affordable Paving Contractors, Inc.	05/16/15	Upper Deerfield, NJ	08/15/2018
Damage, Gas	GS18091069K	GOC2016-1061	Did not properly mark out	\$3,000	South Jersey Gas		08/10/2016	Hammonton, NJ	08/08/2018
Damage, Gas	GS18091067K	GOC2016-1765	Did not properly mark out	\$3,000	South Jersey Gas		11/21/2016	Egg Harbor, NJ	08/08/2018
Damage, Gas	GS18091068K	GOC2017-0251	Did not use reasonable care	\$3,000		Carteret Elks	03/20/2017	Carteret, NJ	08/13/2018
Damage, Gas	GS18091066K	GOC2015-0886	Did not have valid mark out	\$3,000		Artstone, Inc.	07/13/2018	Roselle, NJ	08/10/2018
Damage, Gas	GS18091064K	GOC2015-1120	Did not have valid mark out	\$3,000		Midland Park DPW	08/07/2015	Ridgewood, NJ	08/09/2018
Damage, Electric	ES18091063K	GOC2017-0252	Did not have valid mark out	\$3,000		North Star Home Improvement	04/03/2017	Clark, NJ	08/01/2018
Damage, Gas	GS18091065K	GOC2015-0984	Did not have valid mark out	\$3,000		National Fence Systems, Inc.,	07/22/2015	Piscataway, NJ	08/03/2018
Damage, None	ES18091062K	NOC2018-0072	Did not properly mark out	\$3,000	JCP & L		06/18/2018	Point Pleasant, NJ	07/23/2018
Damage, Gas	GS18101170K	GOC2016-0613	Did not use reasonable care	\$3,000		A.J. Perri, Inc.	05/25/2016	Ocean Grove, NJ	10/02/2018
<b>Total</b>	<b>53</b>	<b>\$157,000.00</b>							