



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
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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 to -91)

ORDER ACCEPTING)
SETTLEMENTS)
DOCKET NOS. GS19010025K,)
et al. (see attached appendix)

Parties of Record:

- Jamie Donatiello**, Public Service Electric & Gas Company
- Sylvia DelVecchio**, Verizon
- Michael Bangle**, NJ American Water Company
- James Regalbuto**, J. Regalbuto Plumbing HVAC Inc.
- Stacy A. Mitchell**, South Jersey Gas Company
- Michael P. Scaciferio**, Elizabethtown Gas Company
- Craig Lynch**, New Jersey Natural Gas Company
- Charles T. Tomasello, President**, Tomasello Winery
- Bhagyashri Joshi**, Conti Solar
- Dominick Villano, City Manager**, City of Clifton
- Peter Dente**, Plush Landscaping
- Richard McLaughlin**, Creamer Sanzari Joint Venture
- Thomas Kapp, Manager**, Garden Lake Mobile Home Park
- Andrew Kunze**, Pro Equipment & Maintenance, Inc.
- Joseph Porchetto**, GMP Contracting LLC
- Rollo Bellantoni**, A.C. Landscaping & Masonry
- Michael Yetsko**, Garden State Landscaping
- Pedro Lopez**, Your Way Construction
- Sabri Demir**, Lighting Mechanical & Electrical Services, LLC
- Mario Albern**, Bal-Co Mechanical LLC
- Peter D. Russo**, Law Offices of Peter D. Russo
- James A. Kelley, Jr.**, Union County Public Works
- Edward Andre**, E. Andre Construction
- Michael P. Walker**, M.P. Walker Well Drilling

BY THE BOARD¹

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.

¹ Commissioner Robert M. Gordon recused himself due to a potential conflict of interest and as such took no part in the discussion on 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

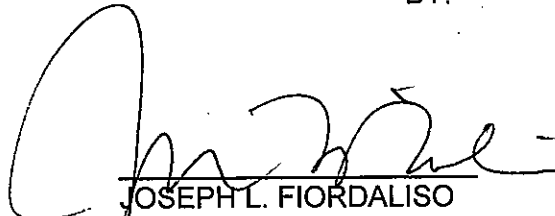
Settlement are for settlement purposes only, and apply strictly to the specific incidents described in the Appendix. This acceptance is without prejudice as to the position of the State of New Jersey or any agency or subdivision thereof if other violations are present, now or in the future.


This Order shall be effective on April 8, 2019.

NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.

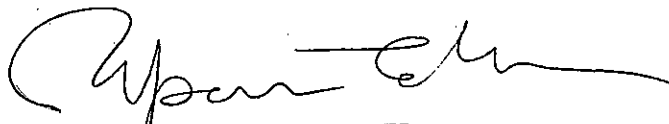
DATED: 3/29/19


BOARD OF PUBLIC UTILITIES
BY:


JOSEPH L. FIORDALISO
PRESIDENT


MARYANNA 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. GS19010025K, et al. (see attached appendix)**

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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-March 13, 2018

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS19010025K	GOC2016-1357	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.		09/27/16	West New York, NJ	10/19/18
Damage, Gas	GS19010026K	GOC2017-0542	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.		05/15/17	Hawthorne, NJ	10/19/18
Damage, Gas	GS19010027K	GOC2018-0373	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.		04/23/18	Camden, NJ	10/19/18
Damage, Gas	GS19010028K	GOC2016-1336	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.		09/16/16	Bayonne, NJ	10/19/18
Damage, Gas	TS19010029K	NOC2015-0006	Did not properly mark out	\$3,000	Verizon		04/01/15	Hamilton, NJ	10/09/18
Damage, Gas	GS19010030K	GOC2015-0477	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.		05/12/2015	Bayonne, NJ	10/19/18
Damage, Gas	GS19010031K	GOC2017-0549	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.		05/26/17	Ringwood, NJ	10/19/18
Damage, Water	WS19010077K	NOC2018-0136	Did not properly mark out	\$3,000	NJ American Water Co.		08/29/18	Livingston, NJ	09/08/18
Damage, Gas	GS19010078K	GOC2017-0260	Failure to use reasonable care	\$3,000		J. Regalbutto Plumbing & HVAC, Inc	03/22/17	Vineland, NJ	08/17/18
Damage, Water	WS19010079K	NOC2018-0138	Did not properly mark out	\$3,000	NJ American Water Co.		08/17/18	Elizabeth, NJ	09/12/18
Damage, Water	WS19010080K	NOC2018-0139	Did not properly mark out	\$3,000	NJ American Water Co.		08/22/18	Elizabeth, NJ	09/12/18
Damage, Water	WS19010081K	NOC2018-0140	Did not properly mark out	\$3,000	NJ American Water Co.		08/29/18	Elizabeth, NJ	09/07/18
Damage, Water	WS19010082K	NOC2018-0141	Did not properly mark out	\$3,000	NJ American Water Co.		08/20/18	Edison, NJ	09/12/18
Damage, Cable	CS19010083K	GOC2016-0186	Did not have a valid mark out	\$3,000		South Jersey Gas Co.	07/06/16	Washington, NJ	10/09/18
Damage, Gas	GS19010084K	GOC2016-1010	Did not properly mark out	\$3,000	Elizabethtown Gas Co.		08/11/16	Union, NJ	09/18/18
Damage, Gas	GS19010085K	GOC2016-1815	Did not properly mark out	\$3,000	Elizabethtown Gas Co.		12/08/16	Edison, NJ	09/18/18
Damage, Gas	GS19010086K	GOC2017-0427	Did not properly mark out	\$3,000	Elizabethtown Gas Co.		05/02/17	Clark, NJ	09/18/18
Damage, Gas	GS19010087K	GOC2016-0998	Did not properly mark out	\$3,000	Elizabethtown Gas Co.		08/01/16	Westfield, NJ	09/18/18
Damage, Gas	GS19010088K	GOC2016-1380	Did not properly mark out	\$3,000	South Jersey Gas Co.		09/16/16	Penns Grove, NJ	10/26/18
Damage, Gas	GS19010089K	GOC2016-1410	Did not properly mark out	\$3,000	South Jersey Gas Co.		09/28/16	Ocean City, NJ	10/26/18
Damage, Telco	TS19010124K	TOC2017-0003	Did not properly mark out	\$3,000	Verizon		01/06/17	Medford, NJ	11/09/18
Damage, Telco	TS19010125K	TOC2015-0027	Did not properly mark out	\$3,000	Verizon		03/25/15	Bernardsville, NJ	11/09/18
Damage, Telco	TS19010126K	NOC2018-0068	Did not properly mark out	\$3,000	Verizon		05/16/18	Hopewell, NJ	08/09/18
Damage, Telco	TS19010127K	NOC2018-0145	Did not properly mark out	\$3,000	Verizon		08/21/18	Princeton, NJ	11/09/18
Damage, Telco	TS19010128K	NOC2018-0146	Did not properly mark out	\$3,000	Verizon		08/29/18	Clifton, NJ	11/09/18
Damage, Telco	TS19010129K	NOC2018-0147	Did not properly mark out	\$3,000	Verizon		10/18/18	East Rutherford, NJ	11/09/18
Damage, Telco	TS19010130K	NOC2018-0148	Did not properly mark out	\$3,000	Verizon		10/10/18	East Rutherford, NJ	11/09/18

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-March 13, 2018

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, None	TS19010131K	NOC2018-0149	Did not properly mark out	\$3,000	Verizon		11/05/18	South Brunswick, NJ	11/09/18
Damage, None	GS19010132K	NOC2018-0150	Did not properly mark out	\$3,000	NJ Natural Gas Co.		09/30/18	Randolph, NJ	09/11/18
Damage, None	GS19010133K	NOC2018-0151	Did not properly mark out	\$3,000	NJ Natural Gas Co.		08/22/18	Randolph, NJ	09/26/18
Damage, None	GS19010134K	NOC2018-0152	Did not properly mark out	\$3,000	NJ Natural Gas Co.		09/05/18	Asbury Park, NJ	09/11/18
Damage, None	GS19010135K	NOC2018-0153	Did not properly mark out	\$3,000	NJ Natural Gas Co.		08/28/18	Denville, NJ	08/18/18
Damage, Electric	ES19010136K	EOC2017-0120	Did not have valid mark out	\$3,000		Tomasello Winery, Inc.	04/17/17	Hammonton, NJ	11/23/18
Damage, None	AS19010104K	NOC2018-0106	Did not have valid mark out	\$3,000		Conti Solar, LLC	10/16/18	Franklin, NJ	11/05/18
Damage, None	AS19010105K	NOC2018-0142	Did not properly mark out	\$3,000	City of Clifton		08/29/18	Clifton, NJ	11/07/18
Damage, None	AS19010106K	NOC2018-0143	Did not properly mark out	\$3,000	City of Clifton		08/29/18	Clifton, NJ	11/07/18
Damage, Gas	GS19010107K	GOC2017-0748	Did not have valid mark out	\$3,000		Plush Landscaping	06/27/17	Marlboro, NJ	11/07/18
Damage, Gas	GS19010108K	GOC2016-1464	Did not have valid mark out	\$3,000		Garden Lake Mobile Home Park	10/04/16	Cape May Court House, NJ	02/28/18
Damage, Gas	GS19010109K	GOC2016-1670	Failure to use reasonable care	\$3,000		Creamer Sanzari Joint Venture	11/16/16	Bedminster, NJ	10/29/18
Damage, Gas	GS19010110K	GOC2016-0027	Did not have a valid mark out	\$3,000		E. Andre Construction	01/07/2016	New Brunswick, NJ	10/23/18
Damage, Gas	GS19010111K	GOC2016-1757	Did not have a valid mark out	\$3,000		Pro Equipment & Maintenance, Inc.	11/30/16	Bay Head, NJ	11/19/18
Damage, Gas	GS19010112K	GOC2016-1863	Did not have a valid mark out	\$3,000		GMP Contracting LLC	12/01/16	Westfield, NJ	10/29/16
Damage, Gas	GS19010113K	GOC2017-0280	Failure to use reasonable care	\$3,000		MP Walker Water Well Drilling	03/30/17	Franklin, NJ	11/24/18
Damage, Gas	GS19010114K	GOC2017-0331	Did not have a valid mark out	\$3,000		A.C. Landscaping & Masonry			
Damage, Gas	GS19010115K	GOC2016-1634	Did not properly mark out	\$3,000	Public Service Electric & Gas Co.		11/10/16	Paterson, NJ	08/07/18
Damage, None	GS19010116K	NOC2018-0144	Did not properly mark out	\$3,000	Elizabethtown Gas Co.		06/19/18	Flemington, NJ	09/18/18
Damage, Gas	GS19020157K	GOC2016-0551	Did not have a valid mark out	\$3,000		Garden State Landscaping	05/24/16	Monroe, NJ	11/16/18
Damage, Cable	CS19020158K	COC2014-0117	Did not have a valid mark out	\$1,000		Your Way Construction	09/12/14	Sayreville, NJ	11/14/18
Damage, Cable	CS19020159K	COC2014-0118	Did not have a valid mark out	\$1,000		Your Way Construction	09/17/14	Sayreville, NJ	11/14/18
Damage, Gas	GS19020160K	GOC2015-0686	Did not have a valid mark out	\$3,000		Lighting Mechanical & Electric Services LLC	06/15/15	Avenel, NJ	11/21/18
Damage, Gas	GS19020161K	GOC2017-0044	Did not have a valid mark out	\$3,000		Bal-co Mechanical LLC	01/03/17	Bloomfield, NJ	11/21/18
Damage, None	GS19020162K	NOC2017-0991	Failure to use reasonable care	\$3,000		Union County Public Works	08/16/17	Elizabeth, NJ	10/24/18
Damage, Gas									
Total	52	\$152,000.00							