



Agenda Date: 7/13/2022
Agenda Item: 6B

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue 1st Floor
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

RELIABILITY & SECURITY

IN THE MATTER OF ALLEGATIONS OF VIOLATIONS OF)	ORDER APPROVING
LAW BY WILLIAM PERRINE LANDSCAPE SERVICES,)	SETTLEMENT
INC. WITH RESPECT TO AN INCIDENT AT 107 KING)	
GEORGE ROAD IN PENNINGTON, NJ ON OCTOBER 30,)	DOCKET NO. ES21030640
2019)	

Party of Record:

Stephen E. Slaven, Esq., on behalf of William Perrine Landscape Services, Inc.

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities ("Board") considers a Stipulation and Agreement of Settlement ("Stipulation") between Staff of the Board's Division of Reliability and Security, Bureau of One Call ("Staff") and William Perrine Landscape Services, Inc. ("WPLS") to resolve an alleged violation of One-Call regulations.

I. BACKGROUND

On October 30, 2019, a natural gas incident occurred at a single-family residence located at 107 King George Rd., Pennington, New Jersey ("Residence"). WPLS was excavating outside the Residence to install footing for an addition. WPLS came in contact with natural gas infrastructure belonging to Elizabethtown Gas Company. The contact resulted in a release of natural gas, which caused an explosion and fire, destroying the Residence ("Incident").

II. INVESTIGATION AND ANALYSIS

Staff conducted a detailed and comprehensive investigation which included a review and evaluation of WPLS' compliance with the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq., and all rules and regulations promulgated thereto, as well as N.J.A.C. 14:2 (collectively, "Applicable Laws"). Specifically, Staff's investigation included, but was not limited to, the procedures, documents, actions, and other circumstances surrounding the Incident. As a result, Staff determined that a build-up of natural gas inside the basement of the Residence was the likely source of the explosion and fire.

Staff advised WPLS that it found certain probable violations of Applicable Laws. These included failing to maintain the markout and using mechanized equipment within 24 inches of marks without first hand digging to expose and locate the facilities.

WPLS contested Staff's conclusions and probable violations. The Parties engaged in settlement negotiations and executed the Stipulation on April 14, 2021, a copy of which is attached hereto as Exhibit A.

III. SUMMARY OF STIPULATION TERMS:

The Stipulation provides, in pertinent part, as follows¹:

1. As a compromise of civil penalties for alleged violations of Applicable Laws, WPLS, without any admission of any violation of law or wrongdoing, shall make a one-time payment of Fifty Thousand Dollars (\$50,000.00) to the Treasurer of the State of New Jersey. The Stipulation represents a settlement of all claims the Board may have against WPLS regarding alleged violations of the Applicable Laws in connection with the Incident.
2. WPLS' agreement to pay the foregoing sum is not an acknowledgement of noncompliance with any law, including the Applicable Laws, Board Orders, or Board requirements, nor is it an admission of any wrongdoing or violation of any law, Board Orders, or Board requirements. As such, the agreement does not constitute any admission of liability.
3. The Parties agree that the terms of the Stipulation shall not be cited or otherwise used by or against each other or other parties or argued as binding persuasive precedent in this or any other forum, except in any proceeding to enforce the Stipulation or the terms and conditions thereof and/or the Board Order adopting the Stipulation.

¹ Should there be any discrepancy between terms in this summary and the terms in the Stipulation, the terms of the Stipulation control, subject to the findings and conclusions contained in this Order. Each paragraph is numbered to coincide with the paragraphs of the Stipulation.

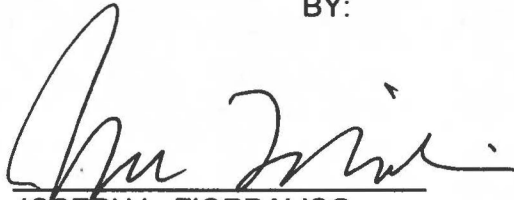
IV. DISCUSSION AND FINDING

After careful review of the record in this matter, the Board **HEREBY FINDS** the Stipulation to be reasonable, in the public interest, and in accordance with the law. Therefore, the Board **HEREBY ADOPTS** the attached Stipulation in its entirety and **HEREBY INCORPORATES** its terms and conditions as if fully provided in this Order.

The effective date of this Order is July 20, 2022.

DATED: July 13, 2022

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST: 

CARMEN D. DIAZ
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.

IN THE MATTER OF ALLEGATIONS OF VIOLATIONS OF LAW BY WILLIAM PERRINE
LANDSCAPE SERVICES, INC. WITH RESPECT TO AN INCIDENT AT 107 KING GEORGE
ROAD IN PENNINGTON, NJ ON OCTOBER 30, 2019

DOCKET NO. ES21030640

SERVICE LIST

<p><u>NJ Department of Law and Public Safety</u> Richard J. Hughes Justice Complex Public Utilities Section 25 Market Street, P.O. Box 112 Trenton, NJ 08625</p> <p>Pamela Owen, DAG pamela.owen@law.njoag.gov</p> <p>Matko Ilic, DAG matko.ilic@law.njoag.gov</p> <p>William Perrine Landscape Services, Inc.</p> <p>Stephen E. Slaven, Esq. 170 S. Main Street Hightstown, NJ 08520</p>	<p><u>Board of Public Utilities</u> 44 South Clinton Avenue, 1st Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p>Carmen Diaz, Acting Secretary board.secretary@bpu.nj.gov</p> <p>Stacy Peterson, Deputy Executive Director stacy.peterson@bpu.nj.gov</p> <p><u>Division of R&S</u></p> <p>Jody Raines, Deputy Director jody.raines@bpu.nj.gov</p> <p>Phil Galka, Bureau Chief phillip.galka@bpu.nj.gov</p> <p>Ann Lang ann.lang@bpu.nj.gov</p> <p>Lauren Mattox lauren.mattox@bpu.nj.gov</p> <p><u>Counsel's Office</u></p> <p>Heather Weisband, Esq. heather.weisband@bpu.nj.gov</p>
--	--

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF ALLEGATIONS OF VIOLATIONS OF LAW BY WILLIAM PERRINE LANDSCAPE SERVICES, INC. WITH RESPECT TO AN INCIDENT AT 107 KING GEORGE ROAD IN PENNINGTON, NJ ON OCTOBER 30, 2019

STIPULATION OF SETTLEMENT

BPU Docket No. ES21030640

This Stipulation and Agreement of Settlement (“Stipulation”) is entered into by and between the Staff of the New Jersey Board of Public Utilities and William Perrine Landscape Services, Inc. (“WPLS”) (collectively referred to as the “Parties”) as of this 14th day of April, 2021.

WHEREAS, on October 30, 2019, WPLS was excavating outside of 107 King George Road in Pennington, NJ. The purpose of the excavation was to install a footing for an addition. The excavator came in contact with natural gas infrastructure belonging to Elizabethtown Gas Company. The contact resulted in a release of natural gas, which caused an explosion and fire moments later, destroying the single-family residential structure (the “Incident”); and

WHEREAS, the Bureau of One Call and Meter Testing (“Board Staff”) of the New Jersey Board of Public Utilities (“the Board”) commenced an investigation of the Incident including an evaluation of WPLS’ compliance with applicable laws, rules and regulations pertaining to natural gas facilities, including the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq., and all rules and regulations promulgated thereto, the Pipeline Safety Act, 49 U.S.C. 60101 et seq., and all rules and regulations promulgated thereto, and the Natural Gas Safety Act, N.J.S.A. 48:10-2 et seq., and all rules and regulations promulgated thereto (collectively “Applicable Laws”); and

WHEREAS, as part of the investigation, Board Staff advised WPLS that it had found certain probable violations of Applicable Laws; and

WHEREAS, WPLS denies any violation of the Applicable Laws, Rules or Regulations;

WHEREAS, the Parties have reached an agreement to resolve any and all claims the Board may have against WPLS arising from or relating to the Incident in a comprehensive settlement in accordance with the terms of this Stipulation. Each party agrees that this Stipulation represents a fair and reasonable settlement of all issues that were or could have been raised in regard to the Incident or Board Staff’s subsequent investigation; and

WHEREAS, the resolution of this matter through the adoption of the stipulated positions set forth herein best serves the interests of the Parties, supports judicial economy and preservation of valuable judicial and administrative resources, and is therefore, in the public interest.

NOW THEREFORE, the Parties hereby agree as follows:

1. As a compromise of civil penalties for alleged violations of Applicable Laws, WPLS, without any admission of any violation of law or wrongdoing, shall make a one-time payment of Fifty Thousand Dollars (\$50,000.00) to the Treasurer of the State of New Jersey. This Stipulation represents a settlement of all claims the Board may have against WPLS regarding alleged violations of the Applicable Laws in connection with the Incident. No later than thirty (30) days after the date that the Board enters an Order approving this Stipulation, WPLS will send a check for Fifty Thousand Dollars (\$50,000.00) payable to the Treasurer of the State of New Jersey to Curtis Elvin, Chief Fiscal Officer, Board of Public Utilities, 44 South Clinton Avenue, 9th Floor, P.O. Box 350, Trenton, New Jersey 08625. A copy of this check shall be provided to Matko Ilic, Deputy Attorney General, Department of Law and Public Safety, 25 Market Street, P.O. Box 112, Trenton, New Jersey 08625.

2. WPLS' agreement to pay the foregoing sum is not an acknowledgement of noncompliance with any law, including the Applicable Laws, Board Orders, or Board requirements, nor is it an admission of any wrongdoing or violation of any law, Board Orders, or Board requirements. As such, the agreement does not constitute any admission of liability. The payment is made as part of a negotiated Stipulation intended to resolve the claims of the respective Parties without further compliance audit or litigation.

3. The Parties agree that the terms of this Stipulation shall not be cited or otherwise used by or against each other or other parties or argued as binding persuasive precedent in this or any other forum, except in any proceeding to enforce the Stipulation or the terms and conditions thereof and/or the Board Order adopting this Stipulation.

4. Should WPLS default in paying the amounts set forth in Paragraph 1 above, the Board shall be entitled to enforce the order pursuant to the Penalty Enforcement Law of 1999 as amended, N.J.S.A. 2A:58-10 et seq., or enter a judgment in the Superior Court of New Jersey or other appropriate forum against WPLS for any unpaid amount set forth in Paragraph 1 above and to take such steps as it deems reasonable to collect the amount due plus interest thereon and to otherwise enforce this Stipulation.

5. After this Stipulation has been fully executed, it shall be presented to the Board for approval.


6. Upon approval of this Stipulation by the Board, it shall then constitute the entire agreement between Board Staff and WPLS with respect to the above-referenced matter and shall operate as a complete and final disposition of the investigation by the Board subject only to the terms of this Stipulation.

7. This Stipulation may not be amended in any way, or any part of its provisions waived, except by writing executed by all the Parties to this Stipulation. In the event the Board modifies any provision of this Stipulation, absent express written consent of the Parties, the Stipulation shall be void and the Parties shall be restored to their positions prior to the execution of the Stipulation.

8. This Stipulation may be executed in as many counterparts as there are signatures thereof, each of which shall be original, but all of which shall constitute one and the same instrument. No amendment or waiver of any substantive provision of this Stipulation shall be effective unless it is agreed to by the authorized representative of each party thereto.


9. This Stipulation shall be governed by and construed in accordance with the laws of the State of New Jersey.

NOW THEREFORE, the Parties cause this Stipulation to be executed by their duly authorized officers and officials.

By: 
Stephen E. Slaven, Esq.
Attorney for William Perrine
Landscape Services, Inc.

Date: 4/14/2021

Gurbir S. Grewal
Attorney General of New Jersey
Attorney for Board Staff

By: 
Matko Ilic
Deputy Attorney General

Date: 4/14/2021