



Agenda Date: 2/24/16  
Agenda Item: VIA

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[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 ET. SEQ. )

ORDER ACCEPTING )  
SETTLEMENTS )

DOCKET NOs. GS16010011K et. al. )  
(see attached appendix)

**Parties of Record:**

- Craig Lynch**, New Jersey Natural Gas
- Alan Van Praag**, Danco General Contracting
- James Bruno**, Telecable
- Bill Butler**, Landscape Dynamix
- Peter Finkle**, The Environmental Approach
- Thomas Murphy**, Belleville DPW
- Ernest Vaughan**, Vaughan Construction
- Arvo Prima**, Prima Builders
- Frank Coriano**, Public Service Electric and Gas
- John Bartels**, Cablevision
- Kevin Keane**, New Jersey American Water
- Nick DePoto**, Elizabethtown Gas
- William Tappin**, South Jersey Gas
- Bernard Smalls**, Verizon
- Frank Peluso**, Petillo Inc.

**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. 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.

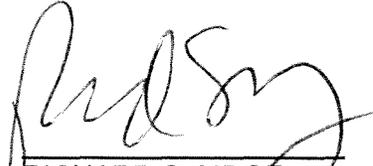
By acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Underground Facility Protection Act in connection with the above-referenced 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.

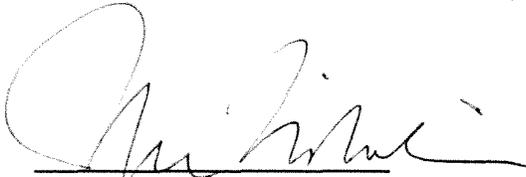
This Order shall be effective on March 5, 2016.

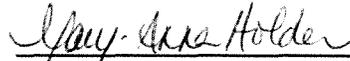
**NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED**

DATED: 2-24-16

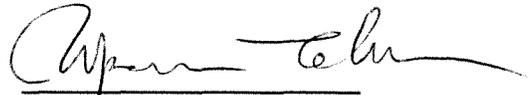
BOARD OF PUBLIC UTILITIES  
BY:

  
RICHARD S. MROZ  
PRESIDENT

  
JOSEPH L. FIORDALISO  
COMMISSIONER

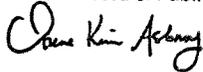
  
MARY-ANNA HOLDEN  
COMMISSIONER

  
DIANNE SOLOMON  
COMMISSIONER

  
UPENDRA J. CHIVUKULA  
COMMISSIONER

ATTEST:   
IRENE KIM ASBURY  
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 NO. GS16010011K 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 ET. SEQ. ORDER ACCEPTING SETTLEMENTS

Bureau of One Call - Settlements -APPENDIX-February VIA 2016

Damage Type	BPU Dkt No.	One Call Case No.	Type of Violation	Penalty	Operator	Excavator	Violation Date	Description/Location	Payment Received
Damage, Gas	GS16010011K	GOC2015-0316	Did not properly mark	\$3,000	NJ Natural Gas		4/6/2015	Broad St. & Woodland Ave., Manasquan	10/21/2015
Damage, Gas	GS16010033K	GOC2014-0283	Did not have a valid markout	\$3,000		Danco General Cont.	6/23/2014	Belleville Ave., Bloomfield	12/28/2015
Non Damage	AS16010032K	NOC2015-0082	Did not have a valid markout, non-gas	\$3,000		Telecable	9/23/2015	McIntire Dr., Hillsborough	12/18/2015
Non Damage	GS16010030K	GOC2015-0266	Did not have a valid markout, non-gas	\$1,000		Landscape Dynamix	3/16/2015	Addison PL., Fair Lawn	12/10/2015
Damage, Gas	GS16010029K	GOC2014-0444	Did not have a valid markout	\$3,000		The Environmental Approach	7/24/2014	Van Beuren Rd., Harding Twp	12/22/2015
Damage, Gas	GS16010024K	GOC2015-0435	Did not properly mark	\$3,000	NJ Natural Gas		4/23/2015	River Rd., Fair Haven	11/11/2015
Damage, Gas	GS16010022K	GOC2014-1028	Did not have a valid markout	\$3,000		Belleville DPW	10/16/2014	Wallace St., Belleville	12/15/2015
Non Damage	GS16010021K	NOC2014-0049	Did not have a valid markout, non-gas	\$3,000		Belleville DPW	7/29/2014	Tremont Ave., Belleville	12/15/2015
Damage, Gas	GS16010019K	GOC2015-0148	Did not properly mark	\$3,000	NJ Natural Gas		3/10/2015	7th Ave., Mantoloking	12/9/2015
Damage, Gas	GS16010016K	GOC2015-0428	Did not have a valid markout	\$3,000		Vaughan Construction	4/16/2015	Garden State Parkway, Holmdel	12/8/2015
Damage, Gas	GS16010013K	GOC2015-0511	Did not have a valid markout	\$3,000		Prima Builders	5/4/2015	Spirit Bear Rd., Toms River	12/14/2015
Damage, Gas	GS16010035K	GOC2015-0034	Did not properly mark	\$3,000	PSE&G		1/9/2015	Nestro Rd., West Orange	12/9/2015
Damage, Gas	GS16010034K	GOC2015-0387	Did not properly mark	\$3,000	PSE&G		4/21/2015	Clifton Blvd., Clifton	12/9/2015
Damage, Gas	GS16010031K	GOC2015-0265	Did not properly mark	\$3,000	PSE&G		3/12/2015	Sand Hills Rd., South Brunswick	11/24/2015
Damage, Cable	CS16010028K	COC2014-0112	Did not properly mark, non-gas	\$2,000	Cablevision		7/24/2014	Hwy 206, Bridgewater	11/5/2015
Non Damage	GS16010027K	NOC2015-0015	Did not have a valid markout, non-gas	\$1,000		PSE&G	4/27/2015	Princeton Ave., Lawrence	11/30/2015
Damage, Water	WS16010026K	WOC2014-0049	Did not properly mark, non-gas	\$2,000	NJ American		7/11/2014	Dorset Rd, Ocean Twp	12/15/2015
Damage, Gas	GS16010023K	GOC2014-1383	Did not properly mark	\$3,000	PSE&G		11/20/2014	Grant Ave., Plainfield	12/15/2015
Damage, Gas	GS16010020K	GOC2015-1323	Did not properly mark	\$3,000	Elizabethtown Gas		9/17/2015	New St., Metuchen	12/31/2015
Damage, Gas	GS16010018K	GOC2015-0048	Did not properly mark	\$3,000	PSE&G		1/20/2015	Elm St., Kearny	11/30/2015
Damage, Gas	GS16010017K	GOC2015-0252	Did not properly mark	\$3,000	South Jersey Gas		3/30/2015	Delware Ave. & Reading Ave., Cape May	12/4/2015
Damage, Gas	GS16010015K	GOC2015-0749	Did not properly mark	\$3,000	Elizabethtown Gas		6/19/2015	18th St., Linden	12/15/2015
Damage, Gas	GS16010014K	GOC2015-0571	Did not properly mark	\$3,000	Elizabethtown Gas		5/28/2015	Winans Ave., Linden	12/22/2015
Damage, Gas	GS16010009K	GOC2015-0876	Did not properly mark	\$3,000	PSE&G		6/24/2015	2nd St., Plainfield	12/15/2015
Damage, Telephone	TS16010010K	TOC2015-0007	Did not properly mark	\$2,000	Verizon		1/11/2015	David Brainerd Dr., Monroe	1/5/2016
Damage, Gas	GS16010012K	GOC2014-0703	Did not have a valid markout	\$3,000		Petillo Inc.	8/19/2014	US 46, Teterboro	12/14/2015
<b>Total</b>		26		\$71,000					