



Agenda Date: 12/6/23  
Agenda Item: VIA

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
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. )  
)  
) DOCKET NOS. ES23100749K  
) et al. (see attached Appendix)

**Party of Record:**

- Paul James**, Atlantic City Electric Company
- Fiscal Operations Manager**, Circul Custom Builders
- Fiscal Manager of Operations**, American Marine
- Vera Silva**, A Takton Concrete Corp.
- John D.**, American Discount Fence
- Michelle Salvatore**, AP Construction
- Guilherme Deoliveira**, A R Masonry
- Jessica Pace**, Capital Concrete
- Fiscal Manager**, Bucks Electrical Services LLC
- Robert Welter**, Belleville Dept. of Public Works
- William Loughheed**, CNB Contracting Corp.
- Fran Wright, Boro Clerk**, Bellmawr DPW
- Fiscal Manager**, Cedar Hill Construction
- Adam Corbin**, Corbin Electrical Service
- Fiscal Manager**, Caruso Landscaping LLC
- Fiscal Manager**, Benjamin Franklin Plumbing
- Fiscal Manager**, ATT Landscape LLC
- Fiscal Manager**, CPW Plumbing & Heating
- Fiscal Manager**, Air Technical Home Services
- Fiscal Manager**, American Coring
- Fiscal Manager**, Ace Brand Carpentry
- Fiscal Manager**, Cotton Home Improvements LLC

BY THE BOARD:

**I. BACKGROUND**

The New Jersey Board of Public Utilities (“Board”) has jurisdiction to oversee and enforce the provisions of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. (“Act”). The Act

establishes the One-Call Damage Prevention System (“One-Call 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, and/or hazardous liquids. 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.

Pursuant to the Act, violators of its provisions shall be subject to civil penalties of no less than \$1,000.00 and no 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 be subject to civil penalties not to exceed \$200,000.00 per violation per day, and not to exceed \$2,000,000.00 for any related series of violations. N.J.S.A. 48:2-86(c). In addition, costs may be assessed related to any Board investigation, inspection, or monitoring survey which leads to the establishment of a violation, and/or the reasonable costs of preparing and litigating the matter. N.J.S.A. 48:2-86(b)(2).

Following reports of various alleged violations under the Act including, but not limited to, failing to call the One-Call System prior to commencing excavation, failing to use reasonable care, failing to mark out or properly mark out underground facilities, and/or failing to report underground facility damages to the Board, Board Staff issued a Notice of Probable Violation and Offer of Settlement to each of the alleged violators and informed them of the date and location of the alleged violations. A complete list of entities that accepted said Offers of Settlement is provided in Appendix A attached hereto and made a part hereof.<sup>1</sup>

## II. DECISION AND FINDINGS

After consideration of the matters provided in Appendix A, including the alleged violations and the Offers of Settlement, the Board **HEREBY FINDS** the Offers of Settlement to be reasonable and in the public interest, and **HEREBY ACCEPTS** the Offers of Settlement in full satisfaction of the alleged violations of the Act as provided in Appendix A attached hereto and made part hereof.

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<sup>1</sup> The 25 Offers of Settlement were accepted by the alleged violators, and each made full payment on the dates provided in Appendix A.

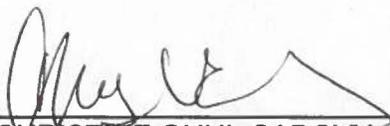
By acceptance of the Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing, and the Board has waived any rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations. It must also be noted that the acceptance of the Offers of Settlement is for settlement purposes only and applies strictly to the specific incidents described in Appendix A. 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.

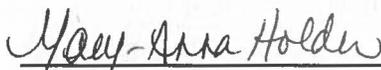
**NO FURTHER ACTION BY THE RESPONDENTS IS REQUIRED.**

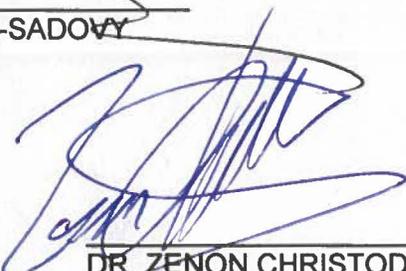
This Order shall be effective on December 13, 2023.

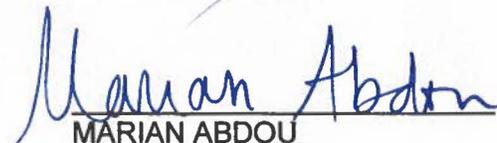
DATED: December 6, 2023

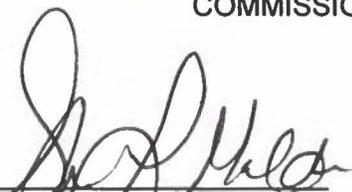
BOARD OF PUBLIC UTILITIES  
BY:

  
CHRISTINE GUHL-SADOVY  
PRESIDENT

  
MARY-ANNA HOLDEN  
COMMISSIONER

  
DR. ZENON CHRISTODOULOU  
COMMISSIONER

  
MARIAN ABDOU  
COMMISSIONER

ATTEST:   
SHERRIL L. GOLDEN  
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.

DOCKET NOS. ES23100749K et al. (see attached Appendix)

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Union, NJ 07083

CPW Plumbing & Heating  
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Cape May Courthouse, NJ 08210

Air Technical Home Services  
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Ship Bottom, NJ 08008

American Coring  
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Toms River, NJ 08755

Ace Brand Carpentry  
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Cotton Home Improvements  
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**APPENDIX A**

In the Matter of Alleged Violations of the Underground Facility Protection Act,  
 N.J.S.A. 48:2-73 et seq.  
 Docket Nos. ES23100749K et al.

Facility Damaged	BPU Docket #	Case #	Type of Violation	Penalty	Alleged Violator	Violation Date	Location	Payment Date
Electric	ES23100749K	EOC2017-0037	Did not properly mark out	\$2,500	Atlantic City Electric	02/17/2017	Turnersville, NJ	06/07/2023
Electric	ES23100750K	EOC2017-0043	Did not properly mark out	\$2,500	Atlantic City Electric	02/28/2017	Mullica Hill, NJ	06/07/2023
Natural Gas	GS23100751K	GOC2014-0224	Did not have a valid mark out	\$3,000	Circl Customer Builders	06/06/2014	Long Beach Twsp. NJ	06/06/2014
Natural Gas	GS23100752K	GOC2016-0456	Did not have a valid mark out	\$3,000	American Marine	04/27/2016	Ocean City, NJ	09/28/2018
Natural Gas	GS23100753K	GOC2016-1865	Did not have a valid mark out	\$3,000	A Takton Concrete Corp.	10/05/2016	Roselle, NJ	09/24/2019
Natural Gas	GS23100754K	GOC2017-0356	Failure to use reasonable care	\$3,000	Atlantic City Electric	04/14/2017	Elk Twsp., NJ	08/19/2019
Natural Gas	GS23100755K	GOC2017-0759	Failure to use reasonable care	\$3,000	American Discount Fence	06/21/2017	Mullica Hill, NJ	07/18/2018
Natural Gas	GS23100756K	GOC2018-0097	Did not have a valid mark out	\$3,000	AP Construction	02/02/2018	Woolwich Twp., NJ	10/18/2019
Natural Gas	GS23100757K	GOC2021-0183	Did not have a valid mark out	\$3,000	A R Masonry	03/05/2021	Oceanport, NJ	02/28/2023
Natural Gas	GS23100758K	GOC2021-0201	Did not have a valid mark out	\$3,000	Capital Concrete	03/11/2021	Ocean City, NJ	02/16/2023
Natural Gas	GS23100759K	GOC2021-0718	Did not have a valid mark out	\$3,000	Bucks Electrical Services, LLC	06/16/2021	Ocean City, NJ	02/21/2023
Natural Gas	GS23100760K	GOC2021-0778	Did not have a valid mark out	\$3,000	Belleville Depart. of Public Works	06/16/2021	Belleville, NJ	03/23/2023
Natural Gas	GS23100761K	GOC2021-0912	Did not have a valid mark out	\$3,000	CNB Contracting Corp	07/08/2021	Mt. Laurel, NJ	02/14/2023
Natural Gas	GS23100762K	GOC2021-1114	Did not have a valid mark out	\$3,000	Bellmawr DPW	08/26/2021	Mt. Laurel, NJ	02/08/2023
Natural Gas	GS23100763K	GOC2021-1261	Did not have a valid mark out	\$3,000	Cedar Hill Construction LLC	09/20/2021	Mt. Laurel, NJ	08/22/2023
Natural Gas	GS23100764K	GOC2021-1669	Failure to use reasonable care	\$3,000	Corbin Electrical Service	12/28/2021	Mt. Laurel, NJ	08/02/2023
Natural Gas	GS23100765K	GOC2022-0061	Did not have a valid mark out	\$3,000	Caruso Landscaping LLC	01/13/2022	Montvale, NJ	03/23/2023
Natural Gas	GS23100766K	GOC2022-0137	Did not have a valid mark out	\$3,000	Benjamin Franklin Plumbing	03/01/2022	Annandale, NJ	08/23/2023
Natural Gas	GS23100767K	GOC2022-0911	Did not have a valid mark out	\$3,000	ATT Landscape LLC	08/06/2022	Westfield, NJ	06/14/2023
Natural Gas	GS23100768K	GOC2022-1100	Did not have a valid mark out	\$3,000	CPW Plumbing & Heating	09/12/2022	Cape May, NJ	10/20/2022
Natural Gas	GS23100769K	GOC2022-1125	Did not have a valid mark out	\$3,000	Air Technical Home Services	09/12/2022	Beach Haven West, NJ	10/21/2022
Natural Gas	GS23100770K	GOC2022-1130	Did not have a valid mark out	\$3,000	American Coring	09/14/2022	Shrewsbury, NJ	10/27/2022
Natural Gas	GS23100771K	GOC2022-1506	Did not have a valid mark out	\$3,000	Ace Brand Carpentry	11/03/2022	Bay Head, NJ	06/26/23

**APPENDIX A**

In the Matter of Alleged Violations of the Underground Facility Protection Act,  
 N.J.S.A. 48:2-73 et seq.  
 Docket Nos. ES23100749K et al.

Facility Damaged	BPU Docket #	One Call Case #	Type of Violation	Penalty	Alleged Violator	Violation Date	Location	Payment Date
Natural Gas	GS23100772K	GOC2023-0690	Did not have a valid mark out	\$3,000	Cotton Home Improvements	06/26/2023	Lower, NJ	06/26/2023
Non-Damage	ES23100773K	NOC2016-0059	Failure to report Damage to BPU	\$2,500	Atlantic City Electric	10/27/2016	Lower, NJ	10/16/2016
Total Cases: 25 Total Penalties: \$73,500								