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NOTICE¹

**In the Matter of the Re-adoption by Notice of New Jersey Administrative Code
("N.J.A.C.") 14:2 "Underground Facilities: One-Call Damage Prevention System"
Docket No. AX18020155**

Discussion Workgroup – Friday, September 20, 2019

The Staff of the Board of Public Utilities (Board) invites all interested parties and members of the public to a stakeholder meeting to discuss the re-adoption of the Board's rules entitled, "Underground Facilities: One-Call Damage Prevention System" as set forth in N.J.A.C. 14:2.

Board Staff is charged with working alongside stakeholders to review and propose changes to these rules outlined in Chapter 2. As part of this process, a number of issues will be analyzed, including, but not limited to, operator responsibilities, excavator responsibilities, and other best practices that will not only assist in the protection of underground facilities, but will also promote the safety of our community. This workgroup is a follow-up to the water issues discussed during the stakeholder process.

N.J.S.A. 48:2-73, et seq. defines an underground facility operator as follows:

"Underground facility operator" or "operator" means a person that owns or operates, or controls the operation of, an underground facility, except that this term does not include a homeowner who owns only residential underground facilities, such as an underground lawn sprinkler system or an underground structure for a residential low-voltage lighting system.

The Administrative Code outlines the following requirements:

§ 14:2-4.2 Underground facility operators -- basic requirements

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(a) An underground facility operator shall ensure that it is fully equipped and available to receive from the One-Call center the information required under N.J.A.C. 14:2-3.2 regarding a planned excavation or demolition.

(b) Within three business days after receiving information from the One-Call center regarding a planned excavation or demolition, an underground facility operator shall do either of the following:

1. If the underground facility operator owns, operates or controls any underground facilities on the site, the underground facility operator shall mark out the site as required under N.J.A.C. 14:2-5, except if a facility is exempt from markout requirements under N.J.A.C. 14:2-4.1(b) or (c). If an underground facility operator does not own or operate a facility, but controls it, the operator is responsible for compliance with this paragraph; or
2. If the underground facility operator does not own, operate or control any underground facilities on the site, the underground facility operator shall make a reasonable effort to notify the excavator of that fact.

(c) For the purposes of (b) above, an underground facility operator shall be deemed to control all portions of an underground facility carrying metered service, which are not located on the customer's side of the meter, regardless of who owns the property. For example, if a residential electric customer owns an underground electric line, which provides electricity from the street to the customer's electric meter in an area served by overhead electric lines, the electric utility shall be deemed to control that underground electric line.

This workgroup will provide stakeholders the opportunity to discuss comments received from the water industry regarding markout responsibilities including, but not limited to, the following:

Who is responsible to mark the underground water infrastructure between the company owned curb shut-off, and the company owned meter?

For non-metallic pipes installed prior to 1994, what are reasonable efforts?

Should water service line contracts indemnify excavators and underground facility operators?

Comment from NAWC-NJ:

While it is completely reasonable for a water company to incur the risks associated with markouts of facilities it owns and controls, including the risks of being sued, it is not reasonable to incur the risks of liability for markouts the water company does not own or control but for an artificial and illogical construct of "control" as defined in N.J.A.C. 14:2-4.2(c).

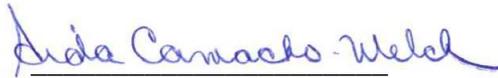
Along with this notice, Board Staff will notify previous participants and potential participants about this stakeholder process on the Board's website at <http://www.nj.gov/bpu>.

Questions should be directed to Phil Galka in the Board's Division of Reliability and Security via email at bpu.onecall@bpu.nj.gov.

Stakeholder Meeting: In the Matter of the Board's Review of N.J.A.C. 14:2 Underground Facilities: One-Call Damage Prevention System

Date: Friday, September 20, 2019
Location: Board of Public Utilities
44 South Clinton Avenue
Trenton, NJ 08625
Multi-purpose Room (1st Floor)

Time: Check-in: 9:45 a.m.
Start Time: 10:00 a.m.



Aida Camacho-Welch
Secretary of the Board

Dated: August 13, 2019