

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 5, 2018

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PETITION OF

COLUMBIA GAS OF VIRGINIA, INC.,

CASE NO. URS-2018-00005

For rulemaking to revise requirements
for trenchless excavation set forth in
20 VAC 5-309-150 of the Rules for
Enforcement of the Underground Utility
Damage Prevention Act

ORDER ESTABLISHING PROCEEDING

On January 23, 2018, Columbia Gas of Virginia, Inc. ("Petitioner"), filed a Petition for Rulemaking ("Petition") requesting that the State Corporation Commission ("Commission") initiate a rulemaking for the limited purpose of revising 20 VAC 5-309-150 ("Rule 150") of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act¹ that prescribes requirements for trenchless excavation. The proposed revisions ("Proposed Rule") are attached hereto as Attachment A.²

The Petitioner states that the Proposed Rule would (1) provide for greater flexibility when conducting trenchless excavation that crosses gravity fed sewer mains and combination storm/sanitary sewer system utility lines; and (2) enhance the safety and efficiency of conducting such excavations.³ According to the Petitioner, the Proposed Rule recognizes that technology

¹ 20 VAC 5-309-10 *et seq.*

² Attachment A reflects the Proposed Rule as filed by the Petitioner and modified consistent with Virginia Code Commission drafting recommendations.

³ Petition at 1.

developed since the Commission's adoption of Rule 150 allows for safe trenchless excavation practices when crossing such utility lines without exposing them by hand digging.⁴

The Petitioner asserts that technological advancements have enabled the precise location of gravity fed sewer mains and storm drains without exposing those facilities, as required by Rule 150 (6).⁵ The Petition states that video cameras designed to pass through these underground facilities are able to communicate with locating equipment at ground level to provide the precise location, depth, and diameter of these utility lines. Video images also show the condition of the facilities, revealing conditions such as cross bores and root damage.⁶ According to the Petitioner, this technology enables the precise knowledge of depth, diameter, location, and condition of gravity fed sewer mains and storm drains to be known without exposing those facilities by hand digging.⁷

According to the Petitioner, the Proposed Rule offers an alternative to the current requirement to expose all utility lines in the bore path prior to conducting trenchless excavation.⁸ The Petitioner states that the Proposed Rule would allow trenchless excavation crossing gravity fed sewer mains and combination storm/sanitary sewer systems to occur without exposing those utility lines if the enumerated steps are taken to ensure proper notification, documentation, and safety precautions.⁹ The steps set forth in the Proposed Rule include: (1) the receipt of

⁴ *Id.*

⁵ Petition at 3.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 4.

⁹ *Id.*

documentation that the utility line operator has been notified of the excavation; (2) that the excavator has determined the depth, diameter, and condition of the utility lines using appropriate locating technology and a sewer system camera; (3) that a clearance of at least three feet is maintained between the bore path and the utility lines; (4) that the post-bore condition of the utility lines is reviewed using a sewer system camera; (5) that the excavator notify the utility line operator(s) of any damage found; and (6) that the excavator maintain all video documentation for 12 months and make it available to the utility line operator(s) and the Division of Utility and Railroad Safety.¹⁰

The Petitioner asserts that modifications in the Proposed Rule ensure that the use of camera technology to locate gravity fed sewer mains and combination storm/sanitary sewer systems is as safe and effective as exposing such utility lines by hand digging. It is further asserted that the use of camera technology where feasible is more efficient and allows excavators to maintain a safe distance from vehicular traffic by eliminating the need for hand digging in road ways.¹¹

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that a proceeding should be established to consider adopting the proposed revision to Rule 150. Attachment A to this Order contains the Proposed Rule. We will direct that notice of the Proposed Rule be given to interested persons and that interested persons and the Commission Staff ("Staff") be provided an opportunity to file written comments on, propose modifications or supplements to, or request a hearing on the Proposed Rule. We will further direct that the

¹⁰ Petition at 4; *see also* Attachment A.

¹¹ Petition at 4.

Petitioner serve a copy of this Order upon each member of the Commission's Underground Utility Damage Prevention Advisory Committee ("Advisory Committee") and each entity listed in Attachment B. Finally, we will direct the Petitioner to formally present the Petition at the Virginia Damage Prevention Conference scheduled to be held April 24-26, 2018.¹²

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. URS-2018-00005.

(2) The Commission's Division of Information Resources shall forward a copy of this Order Establishing Proceeding to the Registrar of Regulations for publication in the *Virginia Register of Regulations*.

(3) On or before March 23, 2018, the Commission's Division of Information Resources shall cause the following notice to be published in newspapers of general circulation throughout the Commonwealth of Virginia:

NOTICE TO THE PUBLIC OF A PETITION FOR
RULEMAKING TO REVISE REQUIREMENTS FOR
TRENCHLESS EXCAVATION SET FORTH IN RULE
20 VAC 5-309-150 OF THE STATE CORPORATION
COMMISSION'S RULES FOR ENFORCEMENT OF THE
UNDERGROUND UTILITY DAMAGE PREVENTION ACT
CASE NO. URS-2018-00005

On January 23, 2018, Columbia Gas of Virginia, Inc. ("Petitioner"), filed a Petition for Rulemaking ("Petition") requesting that the State Corporation Commission ("Commission") initiate a rulemaking for the limited purpose of revising 20 VAC 5-309-150 ("Rule 150") of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act that prescribes requirements for trenchless excavation.

The Petitioner states that the proposed revisions ("Proposed Rule") would (1) provide for greater flexibility when conducting trenchless excavation that crosses gravity fed sewer mains and

¹² An agenda for the conference will be published prior to the start of the conference on April 24, 2018.

combination storm/sanitary sewer system utility lines; and (2) enhance the safety and efficiency of conducting such excavations.

The Petitioner asserts that technological advancements have enabled the precise location of gravity fed sewer mains and storm drains without exposing those facilities, as required by Rule 150 (6). The Petition states that video cameras designed to pass through these underground facilities are able to communicate with locating equipment at ground level to provide the precise location, depth, and diameter of these utility lines. Video images also show the condition of the facilities, revealing conditions such as cross bores and root damage. According to the Petitioner, this technology enables the precise knowledge of depth, diameter, location, and condition of gravity fed sewer mains and storm drains to be known without exposing those facilities by hand digging.

The Petitioner states that the Proposed Rule would allow trenchless excavation crossing gravity fed sewer mains and combination storm/sanitary sewer systems to occur without exposing those utility lines if the enumerated steps are taken to ensure proper notification, documentation, and safety precautions. The steps set forth in the Proposed Rule include: (1) the receipt of documentation that the utility line operator has been notified of the excavation; (2) that the excavator has determined the depth, diameter, and condition of the utility lines using appropriate locating technology and a sewer system camera; (3) that a clearance of at least three feet is maintained between the bore path and the utility lines; (4) that the post-bore condition of the utility lines is reviewed using a sewer system camera; (5) that the excavator notify the utility line operator(s) of any damage found; and (6) that the excavator maintain all video documentation for 12 months and make it available to the utility line operator(s) and the Division of Utility and Railroad Safety.

The Petitioner asserts that modifications in the Proposed Rule ensure that the use of camera technology to locate gravity fed sewer mains and combination storm/sanitary sewer systems is as safe and effective as exposing such utility lines by hand digging. It is further asserted that the use of camera technology where feasible is more efficient and allows excavators to maintain a safe distance from vehicular traffic by eliminating the need for hand digging in road ways.

Copies of the Petition and the Commission's Order Establishing Proceeding entered in this case may be obtained by

submitting a written request to counsel for the Petitioner, Bryan D. Stogdale, Senior Counsel, NiSource Corporate Services Company, 1809 Coyote Drive, Chester, Virginia 23836. If acceptable to the requesting party, the Company may provide the documents by electronic means. Copies of these documents also shall be available for interested persons to review in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

On or before May 17, 2018, any interested person may file written comments on the Petition with Joel H. Peck, Clerk, State Corporation Commission c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. In the alternative, comments may be submitted with the Clerk of the Commission electronically by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. URS-2018-00005.

On or before May 17, 2018, any interested person may request that the Commission convene a hearing on the Proposed Rule. If not filed electronically, an original and fifteen (15) copies of such request for hearing shall be filed with the Clerk of the Commission at the address set forth above. Requests for hearing shall refer to Case No. URS-2018-00005 and shall include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter.

A copy of any written comments and requests for hearing simultaneously shall be sent to counsel to the Petitioner at the address set forth above.

STATE CORPORATION COMMISSION

(4) On or before March 23, 2018, the Petitioner shall serve a copy of this Order upon each member of the Advisory Committee and each entity listed in Attachment B to this Order.

(5) The Petitioner shall formally present the Petition at the 2018 Virginia Damage Prevention Conference pursuant to the conference agenda made available by the Commission's Division of Utility and Railroad Safety.

(6) On or before April 9, 2018, the Petitioner shall file with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, proof of the service required by Ordering Paragraph (3).

(7) On or before May 17, 2018, any interested person may file comments concerning whether the Commission should modify Rule 150 as requested in the Petition. All comments shall provide suggested changes, if any, to the Proposed Rule. Such comments shall be filed with the Clerk of the Commission at the address in Ordering Paragraph (5) or may be submitted electronically by following the instructions found on the Commission's website:

<http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. Comments shall refer to Case No. URS-2018-00005.

(8) On or before May 17, 2018, interested persons may request that the Commission convene a hearing on the Proposed Rule. Such request for hearing shall be filed with the Clerk of the Commission. If not filed electronically, the original and fifteen (15) copies of the request for hearing shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (5). Requests for hearing shall refer to Case No. URS-2018-00005 and shall include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter.

(9) A copy of any written comments and request for hearing simultaneously shall be sent to counsel for the Petitioner, Bryan D. Stogdale, Senior Counsel, NiSource Corporate Services Company, 1809 Coyote Drive, Chester, Virginia 23836.

(10) On or before April 5, 2018, the Staff shall file any comments on, proposed modifications or supplements to, or requests for hearing on the Proposed Rule.

(11) On or before May 31, 2018, the Petitioner may file with the Clerk of the Commission any response in rebuttal to Staff comments, requests for hearing, and any comments filed by interested persons in this proceeding.

(12) This matter is continued generally pending further order of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Bryan D. Stogdale, Senior Counsel, NiSource Corporate Services Company, 1809 Coyote Drive, Chester, Virginia 23836; C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424; and a copy shall be delivered to the Commission's Office of General Counsel, Division of Utility and Railroad Safety, and the Division of Information Resources.

A True Copy
Teste:



Clerk of the
State Corporation Commission

STATE CORPORATION COMMISSION

Rules for Enforcement of the Underground Utility Damage Prevention Act

20VAC5-309-150. Requirement for trenchless excavation.

A. Any person conducting trenchless excavation shall take all reasonable steps necessary to protect and support underground utility lines. These Except as provided in subsection B of this section, these steps shall include, but are not limited to the following:

1. The excavator should verify that all utility lines in the area are marked;
2. The excavator shall ensure that bore equipment stakes are installed at a safe distance from marked utility lines;
3. When grounding rods are used, the excavator shall ensure that they are installed at a safe distance (at least 24 inches plus the width of the utility line, if known) away from the marked or staked location of utility lines;
4. The excavator shall ensure sufficient clearance is maintained between the bore path and any underground utility lines during pullback;
5. The excavator shall give special consideration to water and sewer systems within the area that cannot be located accurately;
6. Unless prohibited by other laws, ordinances, regulations, or rules of governmental and regulatory authorities having jurisdiction, the excavator shall expose all utility lines which will be in the bore path by hand digging to establish the underground utility line's location prior to commencing bore. For a parallel type bore, unless prohibited by other laws, ordinances, regulations, or rules of governmental and regulatory authorities having jurisdiction, the excavator shall expose the utility line by hand digging at reasonable distances along the bore path;

7. The excavator shall ensure the drill head locating device is functioning properly and within its specification;

8. The excavator shall visually check the drill head as it passes through potholes, entrances, and exit pits; and

9. If the depth indicated by the locating device is lower than the bottom of the pothole or pit, the excavator shall cease boring until the hole/pit can be hand excavated further to maintain a visual inspection of the drill head.

B. Notwithstanding the requirements of subdivision A 6 of this section, any person conducting trenchless excavation crossing any gravity fed sewer main or combination storm/sanitary sewer system utility lines need not expose such utility lines by hand digging if, in addition to meeting the other applicable requirements set forth in subsection A of this section, the following steps are taken;

1. Prior to commencing a project, the excavator shall receive documentation from the utility line operator (such as, but not limit to, documentation through the permitting process) documenting that the operator has been notified of the proposed trenchless excavation and that trenchless excavation will be used to cross its underground utility line. The scope of a project shall not exceed the scope of a single notice of excavation;

2. Prior to commencing the boring process, the excavator shall determine (i) the depth of the utility line through appropriate locating technology and (ii) the diameter and condition of the utility line using a sewer system camera with video recording capability;

3. The excavator shall ensure that a clearance of at least three feet is maintained between the bore path and the utility line;

4. Using the same type of video equipment identified in subdivision B 2 of this section, after the bore has been completed, the excavator shall use a sewer system camera to

determine the condition of the utility line and ensure that no cross bore or other damage has occurred;

5. The excavator shall immediately notify the utility line operator of any damage found; and

6. After the bore has been completed, the excavator shall make all video documentation available to the utility line operator and the Commission's Division of Utility and Railroad Safety upon request. Such video documentation shall be maintained and made available for 12 months from the time of the bore.

C. The provisions of subsection B of this section shall apply only to gravity fed sewer mains or combination storm/sanitary systems that are considered "utility lines" as that term is defined in § 56-265.15 of the Act.

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