

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 12, 2018

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PETITION OF

COLUMBIA GAS OF VIRGINIA, INC.

CASE NO. URS-2018-00005

For rulemaking to revise requirement
for trenchless excavation set forth in
20VAC5-309-150 of the Rules for
Enforcement of the Underground
Utility Damage Prevention Act

ORDER ADOPTING REGULATIONS

On January 23, 2018, Columbia Gas of Virginia ("Petitioner" or "CVA") filed a Petition for Rulemaking ("Petition") with the State Corporation Commission ("Commission").¹ The Petitioner requested that the 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, 20 VAC 5-309-10 *et seq.*, that prescribes requirements for trenchless excavation. The Petition included proposed language ("Proposed Rule") to be considered by the Commission.

The Petitioner stated that the Proposed Rule would (i) provide for greater flexibility when conducting trenchless excavation that crosses gravity fed sewer mains and combination storm/sanitary sewer system utility lines and (ii) enhance the safety and efficiency of conducting such excavations.² Specifically, CVA proposed the following modifications: (1) add a subsection "B" applicable to conducting trenchless excavations crossing gravity fed sewer mains

¹ On December 15, 2017, CVA presented draft language for the proposed rulemaking at a regularly scheduled meeting of the Underground Damage Prevention Advisory Committee.

² Petition at 1.

or combinations of storm/sanitary sewer system utility lines where the exposing of such lines is not required, provided the company utilizes camera technology and other techniques detailed within the new subsection; and (2) add a subsection "C" that restricts the application of the new subsection "B" to gravity fed sewer mains or combination storm/sanitary systems considered "utility lines," as that term is defined in § 56-265.15 of the Underground Utility Damage Prevention Act.³

On March 5, 2018, the Commission entered an Order Establishing Proceeding ("Procedural Order") which, among other things, directed that notice of the Proposed Rule be given to interested persons and that such 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. The Procedural Order directed the Commission's Division of Information Resources to provide a copy thereof to the Registrar of Regulations for publication in the *Virginia Register of Regulations*.⁴ The Procedural Order further directed the Petitioner: (i) to serve a copy thereof upon each member of the Commission's Underground Utility Damage Prevention Advisory Committee and each entity listed in Attachment B of the Order⁵ and (ii) to present the Petition formally at the Virginia Damage Prevention Conference to be held on April 24-26, 2018.⁶

³ *Id.* at 4 and Attachment A.

⁴ The Order Establishing Proceeding and the proposed regulation were published in the April 2, 2018 issue of the *Virginia Register of Regulations*.

⁵ On March 30, 2018, the Petitioner filed a Certificate of Service stating that it had mailed a copy of the Procedural Order to each member of the Underground Damage Prevention Advisory Committee as well as each Virginia Local Natural Gas Distribution Company.

⁶ On April 25, 2018, the Petitioner formally presented the Petition at the Virginia Damage Prevention Conference.

On April 5, 2018, Staff filed comments proposing slightly revised language for consideration by the Commission that did not materially change the substance of the Proposed Rule. On May 17, 2018, the Virginia Cable Television Communications Association filed comments supporting the Petition as well as Staff's slightly revised language. Also on May 17, 2018, Washington Gas Light Company filed a letter supporting CVA's proposal. On May 21, 2018, Virginia Natural Gas, Inc., filed "clarifying comments regarding the proposed revisions to Rule 150," wherein it suggested a possible interpretation of the new language in the Proposed Rule related to documentation an excavator would receive from the utility line operator notifying of the proposed trenchless excavation.⁷ On May 31, 2018, the Petitioner filed Reply Comments providing the Commission with additional background regarding dialogue with industry stakeholders that took place prior to CVA filing its Petition.⁸ CVA stated that the Proposed Rule provides flexibility for an excavator and operator to develop notification processes tailored to their specific circumstances.⁹ CVA also clarified that it is agreeable to Staff's suggested modifications to the Proposed Rule.¹⁰

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Proposed Rule, incorporating the modifications suggested by Staff, should be approved.

⁷ Comments of Virginia Natural Gas, Inc., at 1-2.

⁸ Comments of CVA at 4.

⁹ *Id.* at 5.

¹⁰ *Id.* at 2.

Accordingly, IT IS ORDERED THAT:

(1) The Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act, 20 VAC 5-309-10 *et seq.*, hereby are adopted as shown in Attachment A to this Order and shall become effective as of July 1, 2018.

(2) A copy of these regulations as set out in Attachment A of this Order Adopting Regulations shall be forwarded to the Registrar of Regulations for publication in the *Virginia Register*.

(3) This case is dismissed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 E. Main Street, First Floor, Tyler Building, Richmond, Virginia 23219. A copy shall also be sent to the Commission's Office of General Counsel and Division Utility and Railroad Safety.

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~~ that 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;

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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~~ hole or 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 [trenchless excavation] project, the excavator shall receive documentation from the utility line operator (such as, but not limited 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 [trenchless excavation] 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;

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4. Using the same type of video equipment identified in subdivision B 2 of this section, after the [bore trenchless excavation project] 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 division upon request. Such video documentation shall be maintained and made available for 12 months from the time of the [bore notice of excavation].

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.