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DOCKET NUMBER 22199-U

**IN RE: Georgia Public Service Commission Rulemaking
Regarding Location of Large Projects pursuant to
Georgia Utility Facility Protection Act ("GUFPA") as
Amended in 2005**

ORDER ADOPTING NEW RULE AND RULE AMENDMENTS

All interested parties are hereby notified pursuant to Ga. Laws 1964, pp. 338, 342, as amended [Official Code of Georgia Annotated ("O.C.G.A.") § 50-13-4] that the Georgia Public Service Commission ("Commission") has considered and adopted a new rule and an amendment as part of its GUFPA Rules, namely a new Utility Rule 515-9-4-.13 and an amendment to Utility Rule 515-9-4-.02. Such new rule and amendment to Rule 515-9-4-.02 shall become effective as provided by law twenty days after its adoption at the Commission's regularly scheduled Administrative Session on May 16, 2006 and subsequent filing with the Secretary of State.

BY THE COMMISSION:

Whereas, during Administrative Session on May 16, 2006, the Commission approved the adoption of new Utility Rule 515-9-4-.02 and amendment to Utility Rule 515-9-4-.13; and

Whereas, copies of written notices of the proposed new and amended rule previously were mailed to all utilities subject to the jurisdiction of this Commission, and to all interested persons on the mailing list of the Commission pursuant to O.C.G.A. § 50-13-4(a)(1); and

Whereas, after receipt of comments from the Commission's Facilities Protection Staff, BellSouth Telecommunications, Inc. ("BST"), Georgia Power Company, the Utilities Protection Center ("UPC") and the Georgia Utility Contractors Association, Inc ("GUCA") and upon consideration of such comments, the Commission on March 7, 2006 mailed and e-mailed written revised notices of revised versions of the proposed new rule and proposed amended rule were mailed to all interested parties;

Whereas, although no written comments were filed with the Commission's Executive Secretary in response to such March 7, 2006 Revised Notice of Proposed Rulemaking, after informal conferences by the Commission Staff via telephone, in person and via e-mail with various interested parties, including Atlanta Gas Light Company ("AGLC"), Georgia Municipal Association ("GMA") and GUCA, the Commission withdrew its March 7, 2006 Notice of Proposed Rulemaking and issued a Second Notice of Proposed Rulemaking, containing yet additional revisions in the proposed new rule and amended rule and served such Notices to all interested parties via e-mail and U.S. Mail (first class postage repaid).

Whereas, copies of all three such notice was furnished to the Legislative Counsel of the State of Georgia, pursuant to said O.C.G.A. § 50-13-4(e); and

Whereas, the Commission received additional comments from BST, the City of Savannah Water Department and GUCA regarding the second revision of the proposed new rule and proposed amended rule, and such comments, along with all previous comments received, were duly considered; and

WHEREFORE, IT IS ORDERED, that effective May 16, 2005, the existing Utility Rules of the Commission are amended as follows: (1) New Utility Rule 515-9-4-.13 is hereby approved and adopted; and (2) Existing Utility Rule 515-9-4-.02 is hereby amended to add another definition as a new subsection (1) (h) to such Rule. Such new rule and amendment were adopted by the Commission as follows:

SECTION 1. The Commission hereby amends Chapter 515-9-4 of its Utility Rules by amending 515-9-4-.02 by adding the following language as subsection (h):

“(h) O.C.G.A. § 25-9-3 (17) defines “Large Project” as an excavation that involves more work to locate utility facilities than can reasonably be completed within the requirements of subsection (a) of O.C.G.A. Section 25-9-7 requiring a facility owner or operator to locate and mark its facilities within 48 hours beginning the next business day after receipt of a locate request by the Utilities Protection Center (“UPC”). For simplicity of administration by the Commission, a “large project” shall include any project involving mechanized excavation or blasting at a contiguous geographical site or area that exceeds or will exceed one linear mile or that reasonably requires or will require more than three (3) months or ninety (90) days to complete. Such definition includes, but is not limited to, most long term highway, street or road construction or repair projects, most shopping malls, airport developments, industrial park or compound developments, non-earthen dam construction or renovation projects, multiple unit buildings, and most county and municipal public works projects.”

SECTION 2. The Commission hereby adopts the following new Utility Rule 515-9-4-.13:

“515-9-4-.13 Procedures for Large Projects

(1) Purpose and Scope:

The purpose of this rule is to set forth procedures that will allow the excavator and facility owner/operator to waive in writing the 48 hours notice and the 21 calendar day expiration of such locate ticket in order to plan properly and schedule the locating of utility facilities within the geographical area of a designated “Large Project.” Because most large projects require multiple re-stakes, it has proven difficult and cumbersome for facility owner/operators to respond to locate requests within the 48 hour notice time frame normally required by the Georgia Utility Facility Protection Act (“GUFPA”). Excavators on such large projects lasting for months and even years have similarly found it cumbersome and oppressive to have a locate ticket expire after 21 calendar days and have to re-apply for renewal or refreshing of such locate ticket repeatedly over the life of a large project.

This Rule allows for parameters to be set for all parties involved in a large project so that such parties may enjoy more flexibility and less rigidity in reporting without any loss or sacrifice in the record-keeping, locating of utility facilities, prevention of damage to such facilities, and public safety protections which GUFPA was designed and intended to implement.

(2) Procedures:

- (a) Upon an excavator’s contacting the Utilities Protection Center (UPC) to procure a locate ticket and upon the UPC’s concluding that the proposed excavation may qualify under Commission Utility Rule 515-9-4-.02 (1) (h) as a large project ticket (through the process of handling such request(s) for one or more locates), the UPC shall provide instructions for excavator(s) that the

involved excavation project may be treated as a large project under Commission rules and that the excavator has a duty to submit to the UPC a Large Project Planning Meeting Notification .

- (b) Upon the UPC's concluding that a particular locate request or requests might qualify as a Large Project, a Large Project Planning Meeting Notification will be issued by the excavator no less than 10 business days prior to beginning excavation or blasting activities to the UPC for immediate forwarding to all facility owner/operators having facilities in the area. Such notification will include the excavator's suggested date, time, location, and contact person for the proposed meeting. The date of the proposed meeting shall be a minimum of 48 hours after the notification is submitted to the UPC, starting at 7:00 a.m. the next business day and excluding non-business days.
- (c) After receiving the Large Project request, the UPC shall notify all affected facility owners or operators of the request for a Large Project Planning Meeting. The Large Project Planning Meeting will be scheduled no less than 5 business days prior to beginning excavation or blasting activities. Each facility owner/operator shall provide an automated response to the UPC indicating agreement to the date and time of the Large Project Planning Meeting within 2 business days, through the use of the Positive Response Information System (PRIS).
- (d) No later than two business days following the Large Project Planning Meeting, each utility facility owner/operator shall indicate via PRIS their agreement or disagreement to treat the project as a large project.
- (e) In the event that at least sixty percent (60%) of the facility owners/operators agree that the project should be treated as a large project, then for those utility facility owner/operators, these rules and procedures for large projects shall apply. For those utility facility owner/operators who do not agree to treat the project as a large project, the UPC will transmit a normal locate request notification at the outset of the project and will automatically and timely transmit re-stake request notifications to those utility facility owner/operators so long as the project is active.
- (f) As soon as sixty percent (60%) of the utility facility owner/operators have indicated agreement that the project should be treated as a large project, the excavator may contact the UPC and have the status of the ticket changed from a "Large Project Planning Meeting Notification" to a "Large Project Excavation Notification." At that point, the "Large Project Excavation Notification" will become active and will be transmitted by the UPC to all affected utility facility owner/operators.
- (g) During the life of the large project ticket, all requests for locate and notices of completion of locate requests shall be documented through PRIS. Once all

excavation activities have been completed by a particular excavator, such excavator will notify the UPC to close, or de-activate, the notification.

- (h) All Large Project Excavation Notifications will be automatically closed/de-activated once three months or ninety (90) days have elapsed from the date of activation unless renewed beforehand by the excavator. The excavator may re-new the notification as necessary so long as excavation on the project continues. The notification will be automatically closed/de-activated three months or ninety (90) days following the most recent renewal.
 - (i) In the event that less than sixty percent 60% of the utility facility owner/operators agree that the project should be treated as a large project, the rules and procedures for normal excavation notifications shall apply to all utility facility owner/operators.
- (3) When an excavator and a facility owner/operator or LOCATOR/UTILITY enter into a written agreement ([see attached example form](#)) for scheduled marking on a Large Project Notification, steps shall be taken to work together, including a Large Project Planning Meeting, so that the facility owner/operator may locate the utility facilities at a time reasonably in advance of the actual start of excavation or blasting for each phase of the work. At the Large Project Planning Meeting, plans and schedules should be reviewed so a "marking" plan can be formed in order that the necessary markings will take place prior to the excavation and blasting as the project progresses through each area or phase of work. A working relationship should be established between the excavator and the facility owner/operator representatives to reduce confusion at the work site. Emergency phone numbers and contact people should be identified for notifications of problems, delays or changes in the marking plan. In addition to the Large Project Planning Meeting, the excavator should conduct periodic utility coordination meetings to enhance the communication and progress of the planned schedule and markings.

IF FOR ANY REASON A FACILITY OWNER/OPERATOR CANNOT ATTEND SUCH MEETING, THE FACILITY OWNER/OPERATOR'S REPRESENTATIVE MAY CONTACT THE EXCAVATOR AND MAKE OTHER ARRANGEMENTS IF THE EXCAVATOR IS AGREEABLE, OR HAVE THE LINES MARKED WITHIN THE 48 HOURS REQUIRED BY LAW (O.C.G.A. 25-9 ET. AL.).

- (4) The terms and conditions of such agreement must be in writing, and executed by the excavator and the facility owner/operator or locate representative (i.e. contract LOCATOR/UTILITY for the facility owner/operator) before excavation commences. If the LOCATOR/UTILITY is going to execute the agreement on behalf of the facility owner/operator, then the LOCATOR/UTILITY shall provide evidence of a contractual relationship satisfactory to the excavator. Such agreement and compliance with the terms of the agreement shall constitute an exemption from the requirements of subsections 25-9-7 (a) (1), (b) (1), (c), (e) and (k) (1) and

subsections 25-9-6 (c), (e) and (h). The excavator and facility owner/operator shall retain a copy of the executed agreement.

- (5) If the facility owner/operator fails to respond to the excavator's terms of the agreement or the facility owner/operator notifies the excavator that the facilities cannot be marked within the time frame and a mutually agreeable date for marking cannot be reached, the excavator may attempt to locate the facilities in accordance with subsection 25-9-7 (f), then proceed with excavation or blasting provided reasonable care is exercised. If the excavator fails to abide by the terms of the agreement and causes damage to a utility facility as a result, the excavator may be subject to penalties delineated in subsection 25-9-13 (7).
- (6) Nothing in this Rule exempts any facility owner/operator, excavator, LOCATOR/UTILITY or other person from the duty he or she would otherwise have under GUFPA or this Chapter of the Commission's Utility Rules to report damage to utility facilities to the UPC.

AUTHORITY: O.C.G.A. §§ 25-9-3 (17); 25-9-6 (j); 25-9-7(2); and 25-9-13(f), (g) (2) and (h)

SAMPLE

SAMPLE

Large Project – Sample Utility Facility Locating Agreement

THIS AGREEMENT, made this _____
(month/date/year), by and between _____, hereinafter called the
EXCAVATOR, and _____, hereinafter called the
LOCATOR/UTILITY:

Due to the construction of this large project, it will become necessary to make certain arrangements for the locating of the utility facilities in accordance with the Georgia Public Service Commission's Rule 515-9-4, and the cost of which shall be determined in a separate agreement.

This Agreement is for the sole purpose of each party working together to minimize or eliminate any damages to utility facilities as well as allow the EXCAVATOR to pursue the work more expeditiously.

In consideration of the premises and the mutual covenants of the parties hereinafter set forth, it is agreed:

1. The LOCATOR/UTILITY/UTILITY shall provide the EXCAVATOR with correct contact information, including but not limited to, business address, business phone numbers, business facsimile numbers and any available pager or cellular numbers for all available locate technicians/representatives and their supervisors for this project at the time of executing this Agreement.

2. Attached and made part of this agreement is the marking plan, which is prepared by the LOCATOR/UTILITY/UTILITY. Any modifications or changes to the marking plan shall be reviewed and agreed to by both parties.

3. It is specifically understood that the EXCAVATOR will notify the LOCATOR/UTILITY/UTILITY by telephone, electronic mail or other means as provided by the LOCATOR/UTILITY/UTILITY prior to commencing any excavation activities to ensure the specific work sites have been marked.

SAMPLE

SAMPLE

SAMPLE

SAMPLE

4. If EXCAVATOR needs to move to a project work site involving excavation that has not been marked by the LOCATOR/UTILITY/UTILITY or the LOCATOR/UTILITY has not confirmed the accuracy of the existing marks at such site, the EXCAVATOR shall make contact with the LOCATOR/UTILITY and allow time to respond.

5. The LOCATOR/UTILITY shall be available within 24 hours and shall respond within such time frame in order for the work site to be marked or confirm the accuracy of the existing marks.

6. If the LOCATOR/UTILITY fails to respond within the time allowed for in article 4, the EXCAVATOR has the right to terminate this agreement by sending a written letter to said LOCATOR/UTILITY.

7. If the EXCAVATOR fails to contact the LOCATOR/UTILITY or fails to wait the required time for the LOCATOR/UTILITY to respond as provided for in this agreement, then the LOCATOR/UTILITY shall have the right to terminate this agreement by sending a written letter to said EXCAVATOR.

8. If either party terminates this agreement, the Large Project Procedures under the Georgia Public Service Commission's Rule 515-9-4 are hereby waived and the provisions of the Official Code of Georgia, Annotated Section 25-9 shall continue in full force.

LOCATOR/UTILITY Name (print):_____

LOCATOR/UTILITY Signature:_____

EXCAVATOR Name (print):_____

EXCAVATOR Signature:_____

Date: _____
(insert date on page one of the agreement)

SAMPLE

SAMPLE

ORDERED FURTHER, that said adopted new rule and rule amendment, having been published as provided in O.C.G.A. § 50-13-3(b), shall be filed with the Administrative Procedure Act Division of the Secretary of State as provided in O.C.G.A. § 50-13-6(b).

ORDERED FURTHER, that a motion for reconsideration, rehearing, or oral argument or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

ORDERED FURTHER, that jurisdiction over this matter is expressly retained for the purpose of entering such further order or orders as this Commission may deem just and proper.

The above action by the Commission during its Administrative Session on the 16th day of May, 2006.

Reece McAlister
Executive Secretary

Stan Wise
Chairman

Date

Date