



STATE OF CONNECTICUT

PUBLIC UTILITIES REGULATORY AUTHORITY

DOCKET NO. 14-10-02 REGULATIONS REGARDING EXCAVATION NEAR UNDERGROUND UTILITIES

RESPONSE TO COMMENTS

The Public Utilities Regulatory Authority (Authority or PURA) received comments regarding the proposed amendments to Regulations of Connecticut State Agencies §16-345-1 to §16-345-9 from the Connecticut Light and Power Company and Yankee Gas Services Company, dba Eversource Energy (Eversource). The Authority considered Eversource's comments and adopts some suggestions while rejecting the remainder.

Statement of the Principal Reasons in Support of the Public Utilities Regulatory Authority's Intended Action:

The proposed amendments to the regulations will serve to update rules to the "Call Before You Dig" procedures. More particularly, the regulations address proper techniques and protocol for the excavation of underground utility facilities. These regulatory changes are necessary to reflect the statutory amendments made in General Statutes of Connecticut §§16-345 through 16-359. In addition, the proposed amendments incorporate technical drafting changes. Having reviewed Eversource's comments (in italics), the Authority will adopt the following changes as explained below:

1. § 16-345-5(h) of the Regulations of Connecticut State Agencies

The proposed changes state, "(h) Surface markings, flags or stakes shall be located at the outer limits of the designated area and at such appropriate intervals, not greater than ten feet between marks, as is necessary to clearly indicate the location and course of the underground facility." In recent times, the Companies have received repeated complaints from municipalities and customers regarding the increased amount of paint being utilized in connection with mark outs. Requiring companies to mark surfaces every ten feet will increase the already lofty amount of markings required. In order to address these concerns, while at the same time balancing safety considerations, the Companies suggest increasing the ten-foot limit to fifty feet, such that the regulation would read, "(h) Surface markings, flags or stakes shall be located at the outer limits of the designated area and at such appropriate intervals, not greater than fifty feet between marks, as is necessary to clearly indicate the location and course of the underground facility." The Companies' proposed language would not rule out situations where safety dictates that markings are necessary every ten feet; however, in those situations where additional markings are not necessary (such as a straight roadway with no changed circumstances within a fifty-foot section), the Companies suggest defaulting to a fifty-foot requirement.

Having considered this comment, the Authority will make a slight modification to the proposed regulation. The Authority has observed that, without standards, the spacing between marks sometimes gets excessive. Construction activity tends to disturb and obscure marks that are in place and the more marks that are originally placed the better the chance for some marks to remain when the excavator is progressing with the excavation. While willing to consider

changing the distance, PURA believes that fifty feet is too excessive a distance to have between marks. Rather, the Authority deems it appropriate to increase the distance from ten feet to twenty feet between marks. Therefore, the Authority will change 16-345-5(h) to state “Surface markings, flags or stakes shall be located at the outer limits of the designated area and at such appropriate intervals, not greater than twenty feet between marks, as is necessary to clearly indicate the location and course of the underground facility.”

2. Eversource believes it is unnecessary to require additional descriptor markings proposed in §16-345-5(k) of the Regulations of Connecticut State Agencies because it may be repetitive to mark every few feet. Specifically, Eversource states:

The Companies recognize that this section was added in order to educate excavators when there is an abandoned service alongside a new service. As noted above, the number of complaints received on behalf of municipalities and customers concerning what is becoming known as “Legal Graffiti” is on the rise. By requiring these additional descriptors, the amount of paint being utilized will only increase. Further, some of the additional information is redundant, as it can be found currently on the street, at the service tee; the additional markings may cause confusion with both locators and excavators; and if the Companies are made to record this information on each and every stake and flag, employees will spend an inordinate amount of writing repetitive information every few feet. The Companies propose adding language to the regulations requiring the special descriptors to appear only once per job location and propose the following sentence be added to the aforementioned section, “Mark special descriptors in one location along a service lateral, as close to the service tee as possible.”

Having considered this comment, the Authority will clarify the requirements of adding the company name and special descriptors to the marks. Many incidents occur each year when abandoned facilities are mistaken for active facilities. The concept is to provide the excavator with the knowledge necessary to identify if the facility they find in the ground is the marked facility. It is important that this information exist on the site in sufficient quantity such that the excavator has that necessary knowledge. While the Authority is cognizant of the fact that municipalities and customers complain about the amount of “graffiti”, public safety is paramount. Nevertheless, the Authority will amend the requirements to clarify that these identifying marks do not need to be at every single mark, but in quantities sufficient to be visible on each site. Specifically, the Authority will amend the rules as follows:

16-345-5(k)(1) Markings for pipes shall appear as follows (“ABC” (which represents the name of the public utility or commonly recognized abbreviation), pipe size, material type and any special descriptors shall also be shown in sufficient quantities to be visible from any point in the designated area):

16-345-5(k)(2) Markings for cable or wire shall be as follows (“ABC” (which represents the name of the public utility or commonly recognized abbreviation) and any applicable special descriptors shall also be shown in sufficient quantities to be visible from any point in the designated area):

16-345-5(k)(3) Markings for a duct bank (multiple duct structure) shall be as follows (“ABC” (which represents the name of the public utility or commonly recognized abbreviation) and any

applicable special descriptors shall also be shown in sufficient quantities to be visible from any point in the designated area):

Statement of the Principal Considerations in Opposition to the Public Utilities Regulatory Authority's Intended Action and the Reasons for Rejecting Such Considerations:

1. *§ 16-345-1(16) of the Regulations of Connecticut State Agencies*

The proposed definition of the term "soft digging" states, "a nonmechanical and nondestructive process used to excavate and evacuate soils at a controlled rate, using high pressure water or air jet to break up the soil, often in conjunction with a high power vacuum unit to extract the soil without damaging the facilities." Currently, when probing for a gas leak, a bar with a weight providing a minimum of 7.8 ft.-lbs. of impact force is utilized. The use of the bar is a significant safety hazard and moving to a hammer drill will be much safer for the employee and potentially result in fewer impact incidents due to the decrease in force exerted. Thus, the Companies suggest adding the term "use of hammer drill" within the definition of "soft digging", such that the definition would read, "a nonmechanical and/or nondestructive process used to excavate and evacuate soils at a controlled rate through the use of a hammer drill that would exert less than 2 ft-lb of impact energy or through the use of a high pressure water or air jet to break up the soil, often in conjunction with a high power vacuum unit to extract the soil without damaging the facilities."

Having considered this comment, the Authority declines to adopt the changes proposed by Eversource. The "Soft Dig" concept is now used as an alternative to having to hand dig near combustible or hazardous fuels or gasses. If this were added to the definition of soft dig, it would allow the use of hammer drills to uncover and expose gas mains, which will pose significant safety concerns and is a dangerous practice. In addition, this language is in the General Statutes of Connecticut §16-354 and adding the term "use of hammer drill" would conflict with the statute.

2. *§ 16-345-3(i) of the Regulations of Connecticut State Agencies*

The proposed changes state, "(i) Any person who locates and marks the location of underground facilities on behalf of a public utility shall be trained in applicable locating industry standards and practices equal or superior to the National Utility Locating Contractors Association's locator training standards and practices. Each person's training shall be documented, and such documents shall be maintained by the public utility." Because Yankee has a comprehensive operator qualification program, which has already been reviewed and approved by PURA, in addition to extensive on-the-job and classroom training programs, it recommends adding language to the aforementioned section stating, "(i) Any person who locates and marks the location of underground facilities on behalf of a natural gas public utility shall follow the utility's applicable operator qualification and formal training programs. In the event that the public utility on whose behalf the locator is working does not have operator qualifications, such locator shall be trained in applicable locating industry standards and practices equal or superior to the National Utility Locating Contractors Association's locator training standards and practices. Each person's training shall be documented, and such documents shall be maintained by the public utility."

The Authority declines to include Eversource's suggested revision because the National Utility Contractors Association's (NULCA) training standards serve as minimum requirements. The Authority recognizes that Eversource's Operator Qualification (OQ) and formal training programs may currently meet or exceed the proposed criteria. As long as gas operators review the NULCA standards and ensure that their OQ and training programs are equal or superior to the NULCA standards, their OQ and training programs will be deemed sufficient.

3. §§ 16-345-5(g) and 16-345-5(g)(2) of the Regulations of Connecticut State Agencies

The proposed changes state, "(g) In areas where surface markings cannot be utilized, or in areas where the use of flags or stakes would be superior to surface markings, flagging or staking shall be employed for identification of the approximate location of an underground utility facility or for designating areas of proposed excavation or demolition." Section 16-345-5(g)(2) goes on to state, "In active construction sites where there is continual movement of equipment and supplies, stakes and flags appropriate to withstand site conditions shall be used." The Companies understand that PURA is aware of the safety risks involved in this type of work and appreciates the attention being given to the matter at hand. The Companies believe, however, that the language noted above may prove to be subjective and, therefore, respectfully request that PURA consider granting deference to the locator, such that the language could read, "(g) In areas where surface markings cannot be utilized, or in areas where the use of flags or stakes would be superior to surface markings in the judgment of the locator, flagging or staking shall be employed for identification of the approximate location of an underground utility facility or for designating areas of proposed excavation or demolition." Likewise, in § 16-345-5(g)(2), the Companies suggest adding language granting deference to the expertise of the locator, such that the section would read, "In active construction sites where there is continual movement of equipment and supplies, the locator shall use his best judgment to determine the appropriate stakes and flags to use in order to withstand site conditions."

Having considered this comment, the Authority declines to adopt the changes proposed by Eversource because the proposed regulation states the minimum expectations for the method of markout in these types of circumstances. Inherently in this process, the locator must use their judgment to make the decision of the markout method to use. Therefore, adding the language above is redundant.

Dated at New Britain, Connecticut, this 20th day of April, 2016.

PUBLIC UTILITIES REGULATORY AUTHORITY



Jeffrey R. Gaudiosi, Esq.
Executive Secretary