REPORT OF THE
STATE CORPORATION COMMISSION

A Task Force Study to Determine the Operation and Effectiveness of § 56-265.17:1 and § 56-265.19 G of the Underground Utility Damage Prevention Act

TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA

SENATE DOCUMENT NO. 4

COMMONWEALTH OF VIRGINIA
RICHMOND
2005

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STATE CORPORATION COMMISSION

December 15, 2004

TO: The Honorable Mark R. Warner
Governor, Commonwealth of Virginia
and
The General Assembly of Virginia

The State Corporation Commission is pleased to transmit this report pursuant to the directives contained in Enactment Clause 2 of Chapter 841 of the 2002 Acts of the General Assembly.

This report is the product of a study conducted by a Commission-appointed task force relative to certain sections of the Underground Utility Damage Prevention Act (Chapter 10.3 of Title 56 of the Code of Virginia). The Commission submits this report for your review and consideration.

Respectfully submitted,

Theodore V. Morrison, Jr.
Chairman

Clinton Miller
Commissioner

Mark C. Christie
Commissioner

PREFACE

The 2002 Session of the Virginia General Assembly directed the State Corporation Commission ("Commission") to convene a Task Force (i) to study the operation and effectiveness of the requirements of § 56-265.17:1 of the Code of Virginia ("Code") and (ii) to study the effectiveness of subsection G of § 56-265.19 of the Code and make recommendations as to whether the requirements of subsection G of § 56-265.19 of the Code should become mandatory. The Commission was directed to report the results of the Task Force's study, including any recommendations, to the 2005 Session of the General Assembly. The enabling authority for this study is presented as Attachment No. 1 to this report.

The Commission appointed a Task Force consisting of representatives from underground utility operators, excavators, project designers, contract locators, local governments, the notification center, and the Commission Staff. The Task Force conducted a study and held 10 meetings to discuss issues relative to abandoned underground utility lines (subsection G of § 56-265.19 of the Code) and designers' involvement in underground utility damage prevention (§§ 56-265.17:1 through 56-265.17:3 of the Code). The members did not reach consensus on how to address these issues in the current law. As a result, votes were taken on two proposals to amend subsection G of § 56-265.19 of the Code and two proposals to amend §§ 56-265.17:1 through 56-265.17:3 of the Code. These proposals and the voting records for the Task Force are included in this report.

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EXECUTIVE SUMMARY

Damage to underground utility lines can cause far reaching consequences, from serious injury and environmental damage to loss of vital utility services Virginia depends on everyday. Preventing damage to underground utility lines is a responsibility shared by all stakeholders and involves, among other things, the exchange of accurate and consistent information between excavators and operators of underground utility lines.

In a 1999 study sponsored by the U. S. Department of Transportation, it was noted that planning and design of projects involving excavation must be recognized as an integral part of underground utility damage prevention. This study further noted that designers should use all reasonable means of obtaining underground utility information, consider the information when designing their projects, and denote the location of the existing underground utility facilities on the project drawings and plans. This practice would reduce damage to facilities, improve safety and minimize costs to complete the projects.

The 2002 Session of the General Assembly amended the Underground Utility Damage Prevention Act ("Act") to provide procedures for designers to get underground utility information through the notification center, if the designers so choose (§§ 56-265.17:1 through 56-265.17:3 of the Code). The Task Force appointed by the Commission studied the effectiveness of the Act relative to this issue but could not reach consensus on a recommendation to amend the Act to require designers to obtain information regarding existing underground utility lines in the design stage of their projects. The majority of the Task Force members voted for minor amendments to §§ 56-265.17:1 and 56-265.17:3 of the Code.

Information regarding abandoned utility lines provided to the excavators can prevent damage to the active lines. As a result, during the 2002 Session of the General Assembly the Act was amended to require operators of underground utility lines to keep records of their abandoned lines. The Act further stated that operators may provide a response to the notification center if the operators have knowledge of the presence of abandoned lines in the excavation area. With this knowledge, the excavators would know that, even after locating and protecting a marked underground utility line, another potentially active line may be in the excavation area. The excavator would proceed with caution until the second line is carefully located. The Task Force considered whether the requirements of subsection G of § 56-265.19 of the Code should become mandatory. To further improve Virginia's underground utility damage prevention program, the majority of the Task Force

members believe that the requirements of subsection G of § 56-265.19 of the Code should become mandatory.

The Task Force also recommended that the Commission's damage prevention training program established in accordance with § 56-265.32 B of the Code be expanded to include an education/outreach program for the designers doing business in the Commonwealth. The goal of this program would be to encourage the designers to use the existing process to get underground utility line information for consideration in their design work and help reduce damage to underground utility lines.

BACKGROUND

In August of 2000, the Commission appointed Task Force 2000 to study a number of underground utility damage prevention issues. As a result, Task Force 2000 recommended several significant changes in the Underground Utility Damage Prevention Act ("Act"), Chapter 10.3 (§ 56-265.14 et seq.) of Title 56 of the Code of Virginia effective July 1, 2002. One of these changes was based on several "best practices" recommended by the "Common Ground Study of One-call Systems and Damage Prevention Best Practices" Report[1], August 1999 ("Common Ground Report"). This report clearly states that "planning and design [of projects requiring excavation] must be recognized as an integral part of damage prevention." Task Force 2000 agreed with the Common Ground Report. As a result, the Act was amended to provide procedures for designers to notify the notification center and request information regarding the horizontal locations of underground utility lines in their project area. If a designer used this procedure, then the designer was required to consider the locations of existing underground utility lines, and design his projects to eliminate or minimize conflict with existing utility facilities. The Act also provided the procedures for underground utility operators to respond to designer requests for underground utility information.

Another amendment to the Act proposed by Task Force 2000 was the addition of subsection G to § 56-265.19 of the Code. This subsection requires operators to make a reasonable attempt to keep records of their underground utility lines (excluding service lines connected to a single-family dwelling unit) abandoned after July 1, 2002. Subsection G further states that operators may provide a response to the notification center's excavator-operator information exchange system when an operator has knowledge that the operator's abandoned lines may be present within the area of the proposed excavation.

The 2002 Session of the General Assembly directed the Commission to convene a Task Force to study the effectiveness and operation of § 56-265.17:1 of the Code (Attachment No. 2) and to make recommendations as to whether the requirements of subsection G of § 56-265.19 of the Code (Attachment No. 3) should become mandatory.

[1] Sponsored by the U.S. Department of Transportation as authorized by the Transportation Equity Act for the 21st Century ("TEA21").

THE TASK FORCE

As directed by the General Assembly, the Commission appointed a Task Force on March 19, 2004. The Task Force consisted of 4 members representing underground utility operators, 3 members representing excavators, 3 members representing project designers, 1 member representing contract locators, 1 member representing the notification center, 1 member representing local governments and 1 member representing the Commission Staff. A list of the Task Force members appears as Attachment No. 4 to this report. The Task Force became known as Task Force 2004 ("Task Force") and held 10 meetings from April 15, 2004, through October 28, 2004. A summary of the discussions that took place during each of these meetings begins on page 4 of this report.

DESIGNER AND ABANDONED LINE SURVEYS

In preparation for the Task Force's study, the Commission Staff conducted two surveys. The purpose of one survey was to assist the Task Force in determining the operation and effectiveness of § 56-265.17:1 of the Code (the Designer Survey). The other survey was conducted to assist in determining whether the requirements of subsection G of § 56-265.19 of the Code should become mandatory (the Abandoned Line Survey).

Designer Survey

The Designer Survey was sent to 400 companies that plan and design projects in Virginia. The survey included 19 questions and was designed to determine the effectiveness and operation of §§ 56-265.17:1 through 56-265.17:3 of the Code from the designers' perspective. Thirty-seven responses to the Designer Survey were received. The responses were tabulated and are presented in Attachment No. 5 to this report. It should be noted that in any survey conducted by mail the "missing data" caused by those who did not respond to the survey may introduce an element of bias in the results. The size of this bias is naturally hard to ascertain. Of the 19 questions, several related more directly to the effectiveness of the process after a designer notice was submitted to the notification center. The survey results relative to these questions are briefly discussed here.

Question 6 asked for the designers' opinion of the notification process when they requested a designer notice. In response, 81% of the respondents believed the notification process was fair or excellent. Question 8 asked if the information requested from the operators was provided in the manner and form requested by the designers. According to the survey results, 68% of the respondents received the information requested from the operators in the manner the designer requested. When asked how long it took the operators to provide the information requested, the survey revealed that 43% of the time, the operators did not provide the information in accordance with the Act. The law requires operators to provide information relative to their existing underground utility lines to the designer within 15 days of the designer's notice. Question 11 was designed to gauge how often excavation notices were given after a designer notice and when excavation such as survey work was required. When a designer notice was provided to the center and excavation was required, only 29% of the respondents submitted an excavation notice as required by the Act. When asked if designers would like to see the designer notice expanded to include projects other than those defined in the law, 70% responded they would like to see the designer notice usage be expanded. Finally, when asked if designers should be required to obtain information relative to the existing underground utility lines in their project area before designing their projects, 38% responded "yes", while 57% responded "no". From these results, it is obvious that the respondents believed operators' responses to designer notices need improvement.

Abandoned Line Survey

The Abandoned Line Survey was sent to 20 operators of underground utility lines and 20 excavators. Responses were received from 11 utilities and 11 excavators. The operator survey included 9 questions to determine how the requirements of subsection G of § 56-265.19 of the Code were being followed. Question 7 specifically asked if it should be mandatory for the operators to provide a response to the notification center when the operator has knowledge that abandoned lines may exist in the excavation area. Six out of the 11 operators responded "yes". The majority (9 out of 11 respondents) of those that responded to the same question in the excavator's survey believed that operators should be required to provide a response to the excavator, through the notification center, when the operator has knowledge of abandoned lines in the excavation area.

The results of the Abandoned Line Survey are presented as Attachment No. 6 to this report.

In addition to conducting these surveys, the Commission Staff collected monthly data relative to the use of the designer notice by designers from the notification center. This data was presented to the Task Force. It was believed that the designer notice is not being used as much as it should due to the fact that a large number of the designers are not aware of the process. It was suggested that the Commission expand its damage prevention training program to include an education/outreach program for designers.

TASK FORCE DELIBERATIONS

On April 15, 2004, the Task Force held its first meeting. At this meeting several important issues were discussed. First, it was noted that the excavators believe the designer notice was not working as well as it should, but that it could work. Second, the excavator representatives suggested that the definition of "Designer" needed to be expanded to allow more people who design projects to use the designer notice. Issue three was a recommendation by excavators to require designers to obtain information regarding the existing underground utility lines during the planning phase of projects. This approach would allow the designers to consider such information and design their projects to minimize or eliminate conflicts with existing underground utility lines. The designer could use a number of means including a designer ticket to get information about the existing underground utility lines. The operators' representatives expressed concerns regarding the increased costs associated with responding to designers' requests for underground utility information, in the event it became mandatory for the designers of projects defined in the law to obtain such information during the planning phase of their project. The group then discussed various quality levels of utility information that designers can obtain to consider in designing their projects. These quality levels are discussed in the "ASCE Standard, Guidelines for the Collection and Depiction of Existing Subsurface Utility Data" (CI/ASCE 38-02). The Task Force requested a presentation regarding the ASCE Standards and requested a copy of these guidelines for each member. The next issue discussed was regarding the length of time by which operators respond to designer tickets. The results of the survey relative to this issue were reviewed. The last issue discussed during the April 15, 2004, meeting was that subdivision 3 of § 56-265.17:3 of the Code be repealed in its entirety because other stakeholders in the process are not relieved from liabilities. According to some on the Task Force, operators should not be exempt from liabilities either.

The Task Force held its second meeting on May 13, 2004. At the beginning of the meeting, it was recommended that a member of the Task Force representing the project designers be replaced. This member could no longer serve on the Task Force due to conflicts with his job responsibilities. In addition, the member representing the local governments requested to be removed from the Task Force due to a potential conflict of interest since his son was also serving on the Task Force. The Task Force received a presentation on using subsurface utility engineering and the ASCE Standards. Next, the section of the Common Ground Report regarding the designers' involvement in underground utility damage prevention was reviewed. Specifically, it was noted that the Common Ground Report at page 15 states "[p]lanning and design must be recognized as an integral part of damage prevention" and at page 21 states that "[t]he designer uses all reasonable means of obtaining information about underground facilities in the area of the planned excavation", and at page 25 states that "[d]esigners indicate existing underground facilities on drawings during planning and design." Finally, the Common Ground Report at page 26 states that "…including this information [complete underground facilities information] on designer's drawings reduces the hazards, simplifies coordination and minimizes the cost to produce the final project." With respect to abandoned lines, the Common Ground Report at page 72 states that "information on abandoned facilities is provided when possible" to excavators.

Reviewing the issues discussed during the April 15, 2004, meeting, the Task Force concentrated on expanding the definition of the "Designer." The Task Force considered the following amendment to the definition of "Designer":

> "Designer means *any person who is or employs a* licensed professional designated by the project owner…"

Next the Task Force discussed the concept of requiring designers to obtain information relative to the existing underground utility lines, consider such information in the planning and design phase, and denote the horizontal locations of the underground utility lines within the scope of the project on construction plans. The majority of the Task Force members believed that this concept was "good" for underground utility damage prevention, public safety, and provide an economic benefit to all parties. Operators continued to express concerns relative to the cost associated with this requirement. It was then suggested that a comprehensive study be conducted to determine the exact costs and benefits of this proposal. The Task Force then discussed the scope and the elements of such a study. Several members also suggested that a comprehensive education and

outreach program provided by the Commission Staff for the designer community regarding the availability of the designer ticket could help move this concept forward.

The third meeting of the Task Force was held on July 22, 2004. During this meeting the members and the other stakeholders further discussed the potential costs and the benefits of the proposal. It was clarified that no one was proposing to make a designer ticket mandatory for the projects defined in the law. The quality of the data that should be obtained by the engineers/designers for each project would be left to the engineer's professional judgment. The designer ticket was recognized as one option the designers can use to get the information. Once again, it was pointed out by a member that designer tickets are being used by some engineers but operators' responses to some of these tickets were incomplete. It was also pointed out that the Virginia Department of Transportation ("VDOT") has used subsurface utility engineering since the mid-eighties to determine the locations of existing underground utilities within the scope of their projects. Comments were made relative to the fact that although some engineers always want to obtain underground utility information during the planning and design of their project, some project owners may not believe that the benefits of the practice outweigh the costs of obtaining the information. The Task Force concluded the meeting by agreeing to discuss the issues including a cost/benefit study at the next meeting and proposed to invite VDOT to discuss its experience regarding collection of underground utility information in advance of project design and consideration of this information in the project design.

On August 26, 2004, the Task Force met and began discussing the issues related to subsection G of § 56-265.19 of the Code. The gas operators concurred that when they have knowledge that abandoned lines may exist in the excavation area, they should provide a response to the excavator through the notification center. The excavators commented that this would greatly help but if utilities have other information such as records of the abandoned lines, they should share that information with the excavators too. The electric and telecommunication operators were concerned that if they were required to provide a response to excavators indicating their knowledge of abandoned lines, the excavators could assume active lines in the area are abandoned lines. According to these operators, this would lead to increased damage and present a safety issue. Several members also expressed concerns regarding the operators' liability and exposure to civil penalties if the information provided proves to be incomplete or inaccurate. Comments were made that the issue of abandoned lines must be addressed because the consequences of not addressing them will only get worse with time. The

excavators noted that this is an important safety issue and must be addressed given that the current law requires operators to keep reasonably accurate records of their abandoned utility lines effective July 1, 2002. The excavators believed that in order to prevent damage to active lines, operators should provide excavators with as much information as is reasonably possible about their abandoned lines. Finally, the excavators recommended that if operators are relieved from civil penalties and liabilities, the operators should agree to provide any information they have relative to their abandoned lines in addition to responses to the notification center. The Task Force considered the following amendments to subsection G to § 56-265.19 of the Code:

> *"Operators shall provide the information they have relative to the location of the abandoned lines to the excavator or the Positive Response System when the operator…"*

It was suggested that draft language be prepared based on what operators may agree to and based on the recommendation from the excavators. The proposed draft language would be reviewed at the next meeting.

With respect to the designer issues, representatives from VDOT commented on several VDOT projects for which they had used the designer ticket process. According to VDOT, the results relative to the operators' responses to these tickets were mixed. In response to the Task Force's inquiry, VDOT noted that it believed for every dollar it spends on getting information regarding the location of underground utility lines in its project area VDOT saves four times that cost. The one to four cost/benefit ratio does not consider down time costs due to damage/conflict or the safety benefits.

A cost/benefit study by the Task Force was then discussed. Various Task Force members commented that getting accurate information for the study would be difficult and that such a study would be costly. One member observed that the study would only verify what is already known. Others noted that unless a third-party conducted the study, it may not be considered credible by some. Finally, the issue of how such a study would be financed was raised.

The fifth meeting of the Task Force was held on September 16, 2004. The group reviewed a pipeline incident where the abandoned gas line was protected due to the marks being close to the abandoned line and the active gas line was damaged. The point was made that the use of the marking standards along with a response to the notification center that abandoned lines may exist could have

helped the excavator prevent this damage. Another accident involving a 12-inch gas line was discussed. This line was damaged during blasting activities required for the construction of a sewer line. The excavator had called two excavation tickets for this job. The locator failed to mark the gas line both times. This accident impacted gas service to 3100 customers and cost the operator/locator more than $600,000. The consequences could have been much more serious. It was pointed out that such accidents may be prevented if the designer of such projects obtains information about existing underground utility lines, considers them, and denotes the location of the utility lines on the construction plans. Even if the line does not get marked due to a failure in the process, the presence of the line on the plan would be a constant reminder to help the excavator prevent damage to the line.

The Task Force then spent time reviewing questions that would be used to collect data to study the costs and benefits of the designer concept. These questions and the Task Force's work thus far were reviewed on September 28, 2004, at the Annual Damage Prevention Conference. During this session the conference attendees were given the opportunity to participate in the discussions relative to the designer concept as well as the abandoned line issues.

At the conference, a representative from AEGIS Insurance Services, Inc. ("AEGIS") made a presentation on underground utility damages and the impact on claims paid out by the company. AEGIS (Associated Electric and Gas Insurance Services) is a non-assessable mutual insurance company owned by its policyholder-members. AEGIS provides insurance and risk management services for its member companies which include a number of utilities in Virginia. In order to address underground utility damages, AEGIS identified the "players" that have significant roles in reducing damages. Planners and designers were identified as one of several players that needed to be involved in preventing damage to underground utility lines.

The Task Force members continued their discussion on the designer concept by questioning a member of the design community on his current practice relative to obtaining underground utility information during the planning and design of projects. This individual noted that most engineers want to get the utility data and incorporate that in their design but the project owners have a say in the process. The owners may assess the risk and not request that engineers incorporate utility data in their design and denote such data on the final plans.

Once again, the Task Force members discussed the merits of conducting a cost/benefit study and reiterated some of the problems with such a study that have been noted earlier in this report.

On October 5, 2004, the Task Force met and discussed two proposals relative to revising subsection G of § 56-265.19 of the Code. These proposals are presented in Attachment No. 7.

Next, the designer issues were discussed. It was then suggested that language be drafted for review by a smaller group including an excavator, operator, engineer and the Commission Staff before the next meeting.

On October 12, 2004, the Task Force concentrated on reaching consensus by reviewing a number of revisions to §§ 56-265.17:1 through 56-265.17:3 of the Code. Toward the end of the meeting, a number of proposed revisions emerged that appeared to satisfy the majority of the Task Force members. These revisions included:

- Amending the "Designer" definition;
- Requiring the designers to obtain information relative to the locations of existing underground utility lines for those projects defined in the law;
- Exempting the design of the underground utility lines by operators and/or their agents from the aforementioned requirement;
- Limiting the project area under each designer notice to one mile;
- Allowing operators to assess a fee for the direct cost of providing the information to designers, if they chose to; and
- Requiring the designers to obtain updated underground utility information if a period of one year or more passes from the date the project owner receives the final plans to the start date of construction.

However, the focus of the meeting then shifted to designer practices that could be considered improper under the law. Specifically, utility representatives believed that if designers were required to obtain information relative to the locations of existing underground utility lines, the majority of the time the designers would use the designer notice to have operators mark their facilities. These marks would then be used for survey excavation activities required for design work. Excavation under a designer notice is not permitted by the Act. On the other hand, if for every designer notice, there is an excavation notice for survey

work, operators would be required to duplicate their marking efforts, with an additional cost to the operators. One operator representative was convinced that designers would utilize excavation notice the majority of the time in order to avoid the fees that may be assessed for using the designer notice to obtain underground utility information. It was decided that the Task Force should review all the issues discussed thus far and meet again on October 21, 2004. Since a report must be prepared and reviewed by the members before it is submitted to the Commission, the members need to be prepared to vote on possible recommendations to the General Assembly.

In order for everyone to have a good understanding of how a designer notice is used and the type of excavations caused by use of surveyors' instruments, a member of the designer community was invited to discuss these practices on October 21, 2004. The operator representatives continued to express serious concerns relative to the proposed language that required designers to obtain information regarding the existing underground utility lines and its impact on utility costs. It was pointed out that with an effective education and outreach program relative to the existing law for the engineers/designers, designer notices and excavation notices for survey work will increase and result in increased costs to utilities. It was further noted that under the current law, the utilities may not assess a fee for providing utility information to the designers. The excavator representatives restated the merits of requiring the designers to get the information relative to the locations of the existing underground utility lines, considering that information in their designs, and reflecting the information on the plans. The designer representatives reiterated that all engineers would want to practice this concept. However, the designer representatives were opposed to being required to do so. They also did not agree that utilities should be able to assess a fee for providing the information about the location of their facilities. After much discussion, the Task Force decided to vote on two motions discussed in the next section.

TASK FORCE VOTES

After extensive discussions that took place during 10 meetings, the Task Force voted on two proposals to revise subsection G of § 56-265.19 of the Code and two proposals to revise §§ 56-265.17:1 through 56-265.17:3 of the Code.

Subsection G of § 56-265.19 of the Code

As previously noted, Attachment No. 7 presents the two proposals to amend subsection G of § 56-265.19 of the Code. Both proposals recommend that the requirements of this subsection become mandatory and exempt operators from any liability and civil penalties if they fail to comply with the law. Proposal 1, however, contains language recommended by the excavators that would require operators to provide to the excavators any information they have relative to their abandoned lines in addition to notifying the excavators, through the notification center, that abandoned lines may exist in the excavation area.

As is obvious from the voting record (Attachment No. 8), the majority of the Task Force members voted for Proposal 2. The excavator representatives did not agree with this recommendation and felt strongly that "[Virginia] can do better." Two members abstained.

§§ 56-265.17:1 through 56-265.17:3 of the Code

Attachment No. 9 presents the two proposals considered by the Task Force. Proposal 1 recommends changes that, among other things, would require designers to obtain underground utility information at the design stage in the limited applications currently stipulated in the law. Proposal 2 recommends minor amendments to the existing law. The voting records (Attachment No. 10) indicate that the majority of the Task Force members voted for Proposal 2. Once again, the excavator representatives did not support Proposal 2, noting that obtaining underground utility information at the design stage is very important for reasons noted in several places in this report. Three members abstained.

MINORITY VIEW

Although noted in various places throughout this report, it is important to summarize the view of the excavator representatives who could not agree with others on the Task Force.

With respect to abandoned lines, the excavators simply believe that if operators have information about their abandoned facilities, they should provide that information to the excavators. According to the excavators, this would assist in preventing damage to active facilities, thereby enhancing safety and reducing other consequences involved with utility damage. With this additional

information, excavators would continue to treat all uncovered lines as live, but would now have knowledge that, even after locating and protecting a marked line (whether active or abandoned), another potentially live line may be in the excavation area. The excavators would proceed with caution until the second line is carefully located. If the second line is not discovered, the excavator would continue to be alert for the possibility that an active line may be in any part of the excavation area. In short, more information given to excavators about the abandoned lines can only improve damage prevention and benefit all stakeholders.

The excavators' representatives strongly endorsed the concept of identifying existing underground utility lines at the design stage of the projects defined in the current statute. They believe that with this information the projects can be designed to eliminate or minimize conflict with existing underground utility lines. They agreed that the quality of data needed would vary from project to project and should be left to the professional judgment of the designer. They also believe that today the more diligent designers are embracing this concept for most of their projects. However, many projects do not benefit from this practice due to various reasons noted in this report. The excavators believe that not following this sound practice results in the following:

- Placement of new facilities with insufficient separation from existing facilities;
- Reduction of cover on existing facilities to accommodate the new project needs;
- The need for excavators to work in close proximity to existing facilities increasing risk of facility damage and other more serious consequences;
- The potential for minor damages to existing facilities that with deterioration over time results in serious consequences; and
- Relocation of existing underground utility lines during the project construction resulting in project delays, increased project costs and possible utility service interruptions.

Excavators' representatives believe that their safety is negatively affected when they have to work in close proximity to existing, potentially dangerous, underground utility lines. According to the excavators, identification of the proximity issues at the design stage can often eliminate the problem altogether by designing proposed structures away from existing underground utility lines. If these structures can not be moved, the professional engineer may then determine

the exact location of the existing facilities using technologies such as Subsurface Utility Engineering. The exact location information shown on the plans and given to the excavators can assist them to proceed with the project with much more information, thereby maximizing safety and minimizing adverse economic consequences. According to the excavators' representatives, these benefits far outweigh any additional costs associated with requiring the designers of certain projects to practice this concept. Finally, the excavators reminded all stakeholders that this concept is a Common Ground Best Practice that has been thoroughly reviewed at the national level and has been found to be a sound and effective underground utility damage prevention practice.

CONCLUSION AND RECOMMENDATIONS

As a result of this study, the majority of the Task Force members recommend that:

- Subdivision G of § 56-265.19 of the Code be amended in accordance with Proposal 2 in Attachment No. 7 to this report;
- Sections 56-265.17:1 and 56-265.17:3 of the Code be amended in accordance with Proposal 2 in Attachment No. 9 to this report; and
- The Commission's damage prevention education program be expanded to include an education/outreach program for designers doing business in Virginia.

Enabling Authority

Acts 2002, C.841, cl.2.

That the State Corporation Commission shall convene a task force (i) to study the operation and effectiveness of the requirements of § 56-265.17:1 of the Code of Virginia and (ii) to study the effectiveness of the requirements of subsection G of § 56-265.19 and to make recommendations as to whether the requirements of this subsection should become mandatory. The task force shall consist of representatives of utility operators, excavators, notification centers, local governments, contract locators, State Corporation Commission staff, and other appropriate persons. The Commission shall report the results of the task force's study, including any recommendations, to the 2005 Session of the General Assembly. The provisions of this enactment shall become effective January 1, 2004.

§§ 56-265.17:1 through 56-265.17:3 of the Code of Virginia

§ 56-265.17:1. Notification and procedures for designers.

A. Each designer, who prepares drawings and plans for projects requiring excavation or demolition work, may notify the notification center and provide the center with the information required by § 56-265.18 and the designer's professional license number.

B. If a designer notifies the notification center to receive underground utility line information in accordance with § 56-265.17:3, the designer shall:

1. Indicate on the construction drawings, the type of underground utility lines, the horizontal location of these lines as provided by the operators, and the names of the operators of these lines;

2. Consider, when designing a project and preparing drawings therefor, the location of existing underground lines so as to minimize damage or interference with the existing facilities;

3. Indicate, on the construction plans or drawings, the designer ticket number and the notification center's toll-free number; and

4. Request only one designer ticket per project through the notification center at no cost.

§ 56-265.17:2. Procedures for project owners.

The project owner shall provide copies of those portions of the drawings that affect the respective operator with underground utility lines in the project area who have responded in accordance with § 56-265.17:3.

§ 56-265.17:3. Procedures for operators in response to a designer notice.

An operator, upon notification by a designer in accordance with § 56-265.17:1, shall:

1. Respond to the designer's request for underground utility line information within fifteen working days in accordance with subdivisions 2, 3, and 4 of this section;

2. Provide designers with the operator's name, the type of underground utility line, and the approximate horizontal location of the utility line. The foregoing information may be provided to the designer through the means that include, but are not limited to, field locates, maps, surveys, installation records or other means. If the designer requests field locates, the operator shall provide field locates in accordance with the accuracy set forth in subsection A of § 56-265.19. Marking shall be done by both paint and flags whenever possible;

3. Provide such information about the location of the utility lines to designers for informational purposes only. Operators will not be liable for any incorrect information provided or for the subsequent use of this information, nor will they be subject to civil penalties for the accuracy of the information or marks provided. Any concerns about the accuracy of information or marks should be directed to the appropriate operator; and

4. Respond to the operator-excavator information exchange system by no later than 7:00 a.m. on the sixteenth working day following the designer's notice to the notification center.

§ 56-265.19 G of the Code of Virginia

For underground utility lines abandoned after July 1, 2002, operators shall make a reasonable attempt to keep records of these abandoned utility lines, excluding service lines connected to a single-family dwelling unit. Operators may provide a response to the excavator-operator information exchange system when an operator has knowledge that the operator's abandoned utility lines may be present within the area of the proposed excavation.

State Corporation Commission
Designer/Abandoned Line Study
Task Force

Appointed on March 19, 2004

Name	Company/Organization	Representing
Chuck Whitley	Washington Gas Light Company	Operator
Cathy Vick	Dominion Virginia Power	Operator
Dave Dewalle	Verizon Virginia, Inc.	Operator
Scott Shelley	Comcast Cablevision of Prince William County	Operator
Richard Harrell[1]	City of Virginia Beach	Local Government
Randy Trimble	Utiliquest, LLC	Locator
Rick Pevarski	Virginia Utility Protection Service, Inc.	Notification Center
John Combs	Henkels & McCoy, Inc.	Designer
Mike Woods[2]	TBE Group, Inc.	Designer
Taylor Turner	R. Stuart Royer & Associates, Inc.	Designer
Gray Pruitt	F. G. Pruitt, Inc	Excavator
Mark Singer	Richmond Area Municipal Contractors Association	Excavator
Johnnie Barr	Ward and Stancil, Inc.	Excavator
Massoud Tahamtani	Commission	Commission Staff

[1]Appointed on August 6, 2004

[2]Appointed on May 14, 2004

Attachment No. 5
Designer Survey
(Three Pages)

Designer Survey Results

The Designer Survey was sent to 400 designers, 37 responded.

Note: Percentages may not add to 100% due to (a) not everyone responding to each question, and (b) multiple answers provided to the same question.

1. How often have you requested a designer ticket since July 2002?

41%	15	5 or more times
46%	17	1-5 times
11%	4	Once
3%	1	Not at all

2. At the time you requested your ticket(s) did you state your request was for a a "designer ticket?"

84%	31	Yes
14%	5	No
		If No, did Miss Utility assist you?
80%	4	Yes
		No
	1	No Answer

3. What was the purpose for requesting the design ticket(s)?

86%	32	Preparing for a new construction project
0%		Estimating or bidding a proposed job
22%	8	Modifications to an existing structure, development or project
0%		Preparing a proposal for a developer
11%	4	Other
	1	No Answer

4. Is the person getting the designer ticket for your company a licensed designer in accordance with the definition in footnote "1" below?

78%	29	Yes
16%	6	No
	2	No Answer

5. At the time you submitted the ticket request; did the Miss Utility Center provide guidance regarding the information needed to validate the request, such as your professional license number?

81%	30	Yes
19%	7	No

6. When requesting a Designer Ticket(s) what was your opinion of the process?

46%	17	Excellent
35%	13	Fair
16%	6	Poor
3%	1	No Answer

Designer Survey Results

7. What manner did you request the designer information be provided?

89%	33	Site or Field Locates (Paint, Flags, Stakes)
19%	7	Maps
16%	6	Surveys
11%	4	Installation Records
3%	1	Other
3%	1	No Answer

8. Was the information you requested provided in the manner or form requested?

68%	25	Yes
16%	6	No
14%	5	Unsure
3%	1	No Answer

9. How long was the turn-around for the information you requested?

43%	16	15 working days or longer
35%	13	10-15 working days
5%	2	5-10 working days
14%	5	Less than 5 working days
3%	1	No Answer

10. Was any excavation (including staking for surveying, etc.) planned as part of the proposed work that generated a request for a design ticket?

59%	22	Yes
38%	14	No
3%	1	No Answer

11. If you answered "yes" to question 10, did you request or were you advised to request a separate ticket for excavating?

27%	6	Yes
73%	16	No

12. Once your design/construction plans were completed, did you provide copies to the affected utility

49%	18	Yes
43%	16	No
8%	3	No Answer

Did any of the affected utility operators request copies?

16%	6	Yes
59%	22	No
24%	9	Not Applicable

13. If you had any questions concerning the information or materials provided, were you able to get help from the utility operator(s) or Miss Utility?

35%	13	Yes
14%	5	No
51%	19	Not Applicable

Designer Survey Results

14. Will you request designer tickets again in the future?

95%	35	Yes
3%	1	No
3%	1	No Answer

15. Will you recommend the designer ticket process to other design professionals?

89%	33	Yes
11%	4	No

16. Would you like to see the designer ticket Process expanded to include project planning (other than those listed in footnote "1" on the previous page) ?

70%	26	Yes
22%	8	No
8%	3	No Answer

18. The current law states that a designer "may" notify Miss Utility to obtain information regarding the location of underground utility lines. Do you think the designer shall be required to obtain such information before designing projects as defined in footnote 1 on the previous page ?

38%	14	Yes
57%	21	No
5%	2	No Answer

19. After you have called in a designer ticket, do you use Subsurface Utility Engineering to find the exact location of underground utility lines before using utility location information on your project?

27%	10	Yes
68%	25	No
5%	2	N/A

Attachment No. 6
Abandoned Line Survey Results

(Three Pages)

Abandoned Line Survey (Excavators)
Results

The Abandoned Line (Excavator) Survey was sent to 20 Excavators, 11 companies responded.

1. Have you had locator responses to your tickets indicating the presence of abandoned utility lines?

7 Yes
4 No

2. If you answered "Yes" to (1) above, has the information been useful in helping you perform your excavation without damaging the underground utility lines?

6 Yes
1 No

3. Currently, the law states that operators may provide a response to Miss Utility's Positive Response System if they have knowledge that the operator may have abandoned utility lines in the excavation area. Should the operators be required to provide this information any time they have knowledge of abandoned lines?

9 Yes
2 No

4. Currently, the way operators can respond to the Miss Utility Positive Response System when they have knowledge of abandoned line facilities in the excavator's area is by using specific codes or subcodes 11, 13, 21, etc. Do you think this method is effective in helping you reduce damage to underground utility lines? Please explain:

7 Yes
1 No
2 No comment
1 Only if they mark and identify abandoned lines

5. Do you think when the presence of an abandoned facility within an excavation site is known, the operator should make an attempt to locate and mark the abandoned facility?

7 Yes
4 No

6. Overall, do you think the way abandoned lines are addressed in the law is effective or changes are needed? If changes are needed, please explain

8 Yes
3 No

Abandoned Line Survey (Operators)
Results

The Abandoned Line (Operator) Survey was sent to 20 Utility operators, 11 companies responded.

1. Subsection G of § 56-265.19 of the Code of Virginia requires that operators keep records of their underground utility lines abandoned after July 1, 2002. How does your company keep these records?

8 GIS
4 Database
8 Hard copy records
1 Other, Please explain (see below)
Electronic cable plats in (former) GTE area of Verizon

2. How is your company's recordkeeping different now as compared to the recordkeeping practices before July 1, 2002? Please explain

8 No Change
3 Changed

3. How does your company communicate abandoned line information to your locators (in-house or contract locators)? Please explain:

"Abandoned line information is provided to our locator electronically and in hard copy"

"At this time, we do not provide this information to our cable locators."

"Through mobile mapping of our GIS"

"Company provides CDs of its GIS mapping system to its Contractor Locators, and is in the process of giving them access to that mapping system."

4. How does your company communicate abandoned line information to Miss Utility of Virginia (the notification center)?

"GIS and grid information"

"We do not provide this information to Miss Utility."

"When aware of them, our locating contractor responds through the positive response system with codes or sub-codes that indicate that abandoned utility lines may be in the area".

"We supply Miss Utility with as-built information similar to what we provide on designer tickets."

5. The above code section states that operators may provide a response to the Miss Utility's Positive Response System indicating the presence of abandoned lines when the operators have knowledge that abandoned lines may be present in the area of a proposed excavation. How often does your company/contract locator provide this response when appropriate?

2 Always 3 Never
6 Sometimes

6**.** If the answer to (5) above is "Never", please explain the reasons?

"Has never been an issue"

"Most of the rebuilt cables are placed within the same easement as the abandoned."

"Company has not built a process to accommodate this response."

7. Do you think operators should be required to provide a response to the Positive Response System when they have knowledge that abandoned lines exist in the excavation area?

6 Yes
5 No

8. If the answer to (7) above is "No", please explain the reasons

"Company provides information on abandoned lines as appropriate. Mandatory compliance would not improve the process"

"If it has been abandoned it will never be used again."

"This information does not change the work plan of the excavator. If the excavator has knowledge of abandoned facilities and exposes them, he will still have to make contact with the utility operator to have someone verify that the cable is de-energized. We do not want to create a false sense of security for the excavating community "

"Whether or not abandoned electrical cables are marked within an excavation area does not, and should not, change how an excavation is to be worked. Once any electrical cable is exposed, the utility operator needs to be contacted and to physically verify that the cable is de-energized. Company's safety rules require company employees and contractors to verify that an electrical cable is de-energized before treating it as such. For safety reasons, it makes sense to have excavators adhere to the same rules.

"Operators are obligated to mark all energized underground lines so excavators are aware of dangers in the area they are digging in. Underground lines are replaced for several reasons, mainly because of the age of the conductor, relocations, and because of damages to the lines caused by excavators who fail to follow the Miss Utility laws of hand digging within 2 ft. of a marked line. Abandoned lines are difficult to locate because there is usually nothing to connect the locate equipment to, and because lines that were replaced because of damages were literally torn up to a point that pieces of cable could be scattered anywhere. Marking abandoned lines will not serve any practical purpose, except for allowing excavators to be even more reckless in working around the lines. More emphasis should be given to accuracy of locating energized lines. When excavators expose lines that have not been marked, it is the responsibility of the operator to identify the lines in 3 hours."

9. Do you think when the presence of an abandoned facility within an excavation site is known, the operator should make an attempt to locate and mark the abandoned facility?

2 Yes
9 No

Proposal 1
To Amend § 56-265.19 G
of the Code of Virginia

For underground utility lines abandoned after July 1, 2002, operators shall make a reasonable attempt to keep records of these abandoned utility lines, excluding service lines connected to a single-family dwelling unit. ~~Operators may provide a response to the excavator-operator information exchange system when~~ **When** an operator has knowledge that the operator's abandoned utility lines may be present within the area of the proposed excavation, **operators *shall* provide a response to the excavator-operator information exchange system, *and may provide if requested by the excavator any additional information relative to the abandoned line to the excavator. The information provided regarding abandoned lines is for informational purposes only. Operators shall not be liable for any incorrect information provided or for the subsequent use of this information, nor shall they be subject to civil penalties for the accuracy of the information. Any concerns about the accuracy of the information should be directed to the appropriate operator.***

Proposal 2
To Amend § 56-265.19 G
of the Code of Virginia

For underground utility lines abandoned after July 1, 2002, operators shall make a reasonable attempt to keep records of these abandoned utility lines, excluding service lines connected to a single-family dwelling unit. ~~Operators may provide a response to the excavator-operator information exchange system when~~ **When** an operator has knowledge that the operator's abandoned utility lines may be present within the area of the proposed excavation, ***the*** **operators** ***shall*** **provide a response to the excavator-operator information exchange system.** ***The information provided regarding abandoned lines is for informational purposes only. Operators shall not be liable for any incorrect information provided or for the subsequent use of this information, nor shall they be subject to civil penalties for the accuracy of the information. Any concerns about the accuracy of the information should be directed to the appropriate operators.***

Proposal 1

Proposed Amendment to § 56-265.19.G of the Code of Virginia
Task Force Vote

October 28, 2004

Name	Yes	No	Abstain
Massoud Tahamtani			√
Johnnie Barr	√		
John Combs, IV		√	
David Dewalle		√	
Richard Harrell		√	
Rick Pevarski	Absent	Absent	Absent
Gray Pruitt	√		
Scott Shelley	Absent	Absent	Absent
Mark Singer	√		
Randy Trimble	Absent	Absent	Absent
Taylor Turner			√
Cathy Vick		√	
Chuck Whitley		√	
Mike Woods		√	

Proposal 2

Proposed Amendment to § 56-265.19.G of the Code of Virginia
Task Force Vote

October 28, 2004

Name	Yes	No	Abstain
Massoud Tahamtani			√
Johnnie Barr		√	
John Combs, IV	√		
David Dewalle	√		
Richard Harrell	√		
Rick Pevarski	√		
Gray Pruitt		√	
Scott Shelley	√		
Mark Singer		√	
Randy Trimble	√		
Taylor Turner			√
Cathy Vick	√		
Chuck Whitley	√		
Mike Woods	√		

Attachment No. 9
Proposals
To Amend §§ 56-265.17:1 through 56-265.17:3
Of The Code of Virginia

(Nine Pages)

Proposal 1
To Amend §§ 56-265.17:1 through 56-265.17:3 of the Code of Virginia and the Related Definitions

§ 56-265.15. Definitions; calculation of time periods.

A. As used in this chapter:

"Abandoned" means no longer in service and physically disconnected from a portion of the underground utility line that is in use for storage or conveyance of service.

"Commission" means the State Corporation Commission.

"Contract locator" means any person contracted by an operator specifically to determine the approximate horizontal location of the operator's utility lines that may exist within the area specified by a notice served on a notification center.

"Damage" means any impact upon or removal of support from an underground facility as a result of excavation or demolition which according to the operating practices of the operator would necessitate the repair of such facility.

"Demolish" or "demolition" means any operation by which a structure or mass of material is wrecked, razed, rendered, moved, or removed by means of any tools, equipment, or discharge of explosives which could damage underground utility lines.

"Designer" means any **person who is or employs a** licensed professional designated by the project owner **and** who designs government projects, commercial projects, residential projects consisting of twenty-five or more units, or industrial projects, which projects require the approval of governmental or regulatory authorities having jurisdiction over the project area.

"Emergency" means a sudden or unexpected occurrence involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.

"Excavate" or "excavation" means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of any tools, equipment, or explosives and includes, without limitation, grading, trenching, digging, ditching, dredging, drilling, augering, tunneling, scraping, cable or pipe plowing and driving, wrecking, razing, rendering, moving, or removing any structure or mass of material.

"Extraordinary circumstances" means floods, snow, ice storms, tornadoes, earthquakes, or other natural disasters.

"Hand digging" means any excavation involving nonmechanized tools or equipment. Hand digging includes, but is not limited to, digging with shovels, picks, and manual post hole diggers, vacuum excavation or soft digging.

"Notification center" means an organization whose membership is open to all operators of underground facilities located within the notification center's designated service area, which maintains a data base, provided by its member operators, that includes the geographic areas in which its member operators desire transmissions of notices of proposed excavation, and which has the capability to transmit, within one hour of receipt, notices of proposed excavation to member operators by teletype, telecopy, personal computer, or telephone.

"Notify," "notice" or "notification" means the completed delivery of information to the person to be notified, and the receipt of same by such person in accordance with this chapter. The delivery of information includes, but is not limited to, the use of any electronic or technological means of data transfer.

"Operator" means any person who owns, furnishes or transports materials or services by means of a utility line.

"Person" means any individual, operator, firm, joint venture, partnership, corporation, association, municipality, or other political subdivision, governmental unit, department or agency, and includes any trustee, receiver, assignee, or personal representative thereof.

"Soft digging" means any excavation using tools or equipment that utilize air or water pressure as the direct means to break up soil or earth for removal by vacuum excavation.

"Special project notice" means a valid notice to the notification center by an excavator covering a specific, unique or long-term project.

"Utility line" means any item of public or private property which is buried or placed below ground or submerged for use in connection with the storage or conveyance of water, sewage, telecommunications, electric energy, cable television, oil, petroleum products, gas, or other substances, and includes but is not limited to pipes, sewers, combination storm/sanitary sewer systems, conduits, cables, valves, lines, wires, manholes, attachments, and those portions of poles below ground. The term "sewage" as used herein does not include any gravity storm drainage systems. Except for any publicly owned gravity sewer system within a county which has adopted the urban county executive form of government, the term "utility line" does not include any gravity sewer system or any combination gravity storm/sanitary sewer system within any counties, cities, towns or political subdivisions constructed or replaced prior to January 1, 1995. No excavator shall be held liable for the cost to repair damage to any such systems constructed or replaced prior to January 1, 1995, unless such systems are located in accordance with § 56-265.19.

"Willful" means an act done intentionally, knowingly, and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently.

"Working day" means every day, except Saturdays, Sundays, and legal state and national holidays.

B. Unless otherwise specified, all time periods used in this chapter shall be calculated from the time of the original notification to the notification center as provided in § 56-265.17. In addition, all time periods exclude Saturdays, Sundays, and legal state and national holidays.

§ 56-265.17:1. Notification and procedures for designers.

A. Each designer, who prepares drawings and plans for projects requiring excavation or demolition work, ~~may notify the notification center and provide the center with the information required by § 56-265.18 and the designer's professional license number.~~ **shall at a minimum:**

~~B. If a designer notifies the notification center to receive underground utility line information in accordance with § 56-265.17:3, the designer shall:~~

1~~. Indicate on the construction drawings, the type~~ **Obtain information relative to the locations** of **existing** underground utility lines~~, the horizontal location of these lines as provided by the operators, and the names of the operators of these lines~~ **within the scope of the project under design**;

2. Consider, when designing a project and preparing drawings **and plans** therefor, the location of existing underground lines so as to minimize damage or interference with ~~the~~ existing facilities; **and**

3. Indicate~~,~~ on the construction ~~plans or~~ drawings, the ~~designer ticket number and the notification center's toll-free number; and~~ **type of underground utility lines, the locations of these lines, and the names of the operators of these lines.**

~~4. Request only one designer ticket per project through the notification center at no cost.~~

B. Designers who have complied with the requirements of the Act and who are not otherwise negligent shall not be subject to its liability or civil penalty provisions.

C. The design of underground utility lines by operators, their employees and/or their agents shall be exempt from the requirements of subsection A of this section.

§ 56-265.17:1.01. Notification procedures for designers to obtain underground utility operator information.

A. A designer may notify the notification center to obtain the name and contact information of operators of underground utility lines within the project area under design. If a designer notifies the notification center, the designer shall:

1. Provide the center with the information required by § 56-265.18 and the designer's professional license number; and

2. Request the information in this subsection only once for each project through the notification center unless changes in conditions warrant additional requests.

B. The project area covered under each designer notice shall not exceed one mile.

C. A designer notice shall not be the notice to excavate.

D. The designer may also notify the notification center to obtain information relative to the horizontal locations of the existing underground utility lines within the scope of the project area under design. The operator shall respond to such notice in accordance with § 56-265.17:4. The operator may assess a fee in an amount not to exceed the demonstrable cost of such operator providing the information. These fees shall represent the direct cost to the operator for the designer notification process only.

E. If an operator fails to provide field locates in accordance with this section, the designer shall notify the notification center. The operators informed by the notification center shall provide field locates as soon as possible not to exceed 24 hours from the designer's notice to the notification center.

§ 56-265.17:2. Procedures for project owners.

A. The project owner shall provide ~~copies of those portions of the drawings that affect the respective~~ **a copy of the drawings to each** operator with underground utility lines in the project area who ~~have responded in accordance~~ **has complied** with § 56-265.17:3.

B. If a period of one year or more passes from the date the project owner receives the final drawings and plans approved for construction from the designer to the start date of construction, the requirements of § 56-265.17:1 shall again apply to the project before construction begins.

§ 56-265.17:3. Procedures for operators in response to a designer notice.

An operator, upon notification by a designer ~~in accordance~~ **who has complied** with § 56-~~265.17:1~~ **265.17:1.01 A1 and D**, shall:

1. Respond to the designer's request for underground utility line information within fifteen working days in accordance with subdivisions 2, 3, and 4 of this section;

2. Provide designers with the operator's name, the type of underground utility line, and the approximate horizontal location of the utility line. The foregoing information ~~may~~ **shall** be provided to the designer through the means that **may** include, but are not limited to, field locates, maps, surveys, installation records or other means. If the designer requests field locates, the operator shall provide field locates in accordance with the accuracy **standards** set forth in subsection A of § 56-265.19~~. Marking shall be done by both paint and flags whenever possible~~;

3. Provide such information about the location of the utility lines to designers for informational purposes only. Operators will not be liable for any incorrect information provided or for the subsequent use of this information, nor will they be subject to civil penalties for the accuracy of the information or marks provided. Any concerns about the accuracy of information or marks should be directed to the appropriate operator; and

4. Respond to the operator-excavator information exchange system by no later than 7:00 a.m. on the sixteenth working day following the designer's notice to the notification center.

§ 56-265.22. Duties of notification center upon notification by person intending to excavate; record of notification made by telephone required.

A. The notification center shall, upon receiving notice by a person, notify all member operators whose underground lines are located in the area of the proposed project, excavation or demolition. The notification center shall also indicate the names of those operators being notified to the person providing notice.

B. If the notification required by this chapter is made by telephone, a record of such notification shall be maintained by the operators or notification center notified to document compliance with the requirements of this chapter, and such records shall be maintained in compliance with the applicable statute of limitations.

C. The notification center shall notify excavators, within the time frame allowed by the law to mark underground utility lines, of any responses placed on the excavator-operator information exchange system by a locator. Such notification shall occur by facsimile or other mutually acceptable means of automatically transmitting and receiving this information.

If the excavator cannot provide the notification center with a facsimile number or other mutually acceptable means of automatically transmitting and receiving this information, it shall be the excavator's responsibility to contact the excavator-operator information exchange system after the period allowed by law to mark underground facilities and prior to commencing excavation in order to determine if any responses to the notice have been recorded.

D. The notification center shall provide designers who have complied with § 56-265.17:1.01 with the names and contact information of each underground utility operator within the project area described on the designer notice.

Proposal 2
To Amend §§56-265.17:1 through 56-265.17:3 of the Code of Virginia and the Related Definitions

§ 56-265.15. Definitions; calculation of time periods.

A. As used in this chapter:

"Abandoned" means no longer in service and physically disconnected from a portion of the underground utility line that is in use for storage or conveyance of service.

"Commission" means the State Corporation Commission.

"Contract locator" means any person contracted by an operator specifically to determine the approximate horizontal location of the operator's utility lines that may exist within the area specified by a notice served on a notification center.

"Damage" means any impact upon or removal of support from an underground facility as a result of excavation or demolition which according to the operating practices of the operator would necessitate the repair of such facility.

"Demolish" or "demolition" means any operation by which a structure or mass of material is wrecked, razed, rendered, moved, or removed by means of any tools, equipment, or discharge of explosives which could damage underground utility lines.

"Designer" means any **person who is or employs a** licensed professional designated by the project owner **and** who designs government projects, commercial projects, residential projects consisting of twenty-five or more units, or industrial projects, which projects require the approval of governmental or regulatory authorities having jurisdiction over the project area.

"Emergency" means a sudden or unexpected occurrence involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.

"Excavate" or "excavation" means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of any tools, equipment, or explosives and includes, without limitation, grading, trenching, digging, ditching, dredging, drilling, augering, tunneling, scraping, cable or pipe plowing and driving, wrecking, razing, rendering, moving, or removing any structure or mass of material.

"Extraordinary circumstances" means floods, snow, ice storms, tornadoes, earthquakes, or other natural disasters.

"Hand digging" means any excavation involving nonmechanized tools or equipment. Hand digging includes, but is not limited to, digging with shovels, picks, and manual post hole diggers, vacuum excavation or soft digging.

"Notification center" means an organization whose membership is open to all operators of underground facilities located within the notification center's designated service area, which maintains a data base, provided by its member operators, that includes the geographic areas in which its member operators desire transmissions of notices of proposed excavation, and which has the capability to transmit, within one hour of receipt, notices of proposed excavation to member operators by teletype, telecopy, personal computer, or telephone.

"Notify," "notice" or "notification" means the completed delivery of information to the person to be notified, and the receipt of same by such person in accordance with this chapter. The delivery of information includes, but is not limited to, the use of any electronic or technological means of data transfer.

"Operator" means any person who owns, furnishes or transports materials or services by means of a utility line.

"Person" means any individual, operator, firm, joint venture, partnership, corporation, association, municipality, or other political subdivision, governmental unit, department or agency, and includes any trustee, receiver, assignee, or personal representative thereof.

"Soft digging" means any excavation using tools or equipment that utilize air or water pressure as the direct means to break up soil or earth for removal by vacuum excavation.

"Special project notice" means a valid notice to the notification center by an excavator covering a specific, unique or long-term project.

"Utility line" means any item of public or private property which is buried or placed below ground or submerged for use in connection with the storage or conveyance of water, sewage, telecommunications, electric energy, cable television, oil, petroleum products, gas, or other substances, and includes but is not limited to pipes, sewers, combination storm/sanitary sewer systems, conduits, cables, valves, lines, wires, manholes, attachments, and those portions of poles below ground. The term "sewage" as used herein does not include any gravity storm drainage systems. Except for any publicly owned gravity sewer system within a county which has adopted the urban county executive form of government, the term "utility line" does not include any gravity sewer system or any combination gravity storm/sanitary sewer system within any counties, cities, towns or political subdivisions constructed or replaced prior to January 1, 1995. No excavator shall be held liable for the cost to repair damage to any such systems constructed or replaced prior to January 1, 1995, unless such systems are located in accordance with § 56-265.19.

"Utility quality level" means a professional opinion about the quality and reliability of utility information. There are four levels of utility quality information, ranging from the most precise and reliable, level A, to the least precise and reliable, Level D. The utility quality level must be determined in accordance with guidelines established by the Construction Institute of the American Society of Civil Engineers in document CI/ASCE 38-02 entitled "Standard Guidelines for the Collection and Depiction of Existing Subsurface Utility Data. "

"Willful" means an act done intentionally, knowingly, and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently.

"Working day" means every day, except Saturdays, Sundays, and legal state and national holidays.

B. Unless otherwise specified, all time periods used in this chapter shall be calculated from the time of the original notification to the notification center as provided in § 56-265.17. In addition, all time periods exclude Saturdays, Sundays, and legal state and national holidays.

§ 56-265.17:1. Notification and procedures for designers.

A. Each designer, who prepares drawings and plans for projects requiring excavation or demolition work, may notify the notification center and provide the center with the information required by § 56-265.18 and the designer's professional license number.

B. If a designer notifies the notification center to receive underground utility line information in accordance with § 56-265.17:3, the designer shall:

1. Indicate on the construction drawings, the type of underground utility lines, the ~~horizontal location~~ **locations** of these lines ~~as provided by the operators~~ **, including the associated utility quality level**, and the names of the operators of these lines;

2. Consider, when designing a project and preparing drawings **and plans** therefor, the location of existing underground lines so as to minimize damage or interference with ~~the~~ existing facilities;

3. Indicate, on the construction plans or drawings, the designer ticket number and the notification center's toll-free number; and

4. Request only one designer ~~ticket~~ **notice** per project through the notification center at no cost **unless changes in conditions warrant additional requests**.

C. The project area covered under each designer notice shall not exceed one mile.

D. A designer notice shall not be the notice to excavate.

§ 56-265.17:3. Procedures for operators in response to a designer notice.

An operator, upon notification by a designer in accordance with § 56-265.17:1, shall:

1. Respond to the designer's request for underground utility line information within fifteen working days in accordance with subdivisions 2, 3, and 4 of this section;

2. Provide designers with the operator's name, the type of underground utility line, and the approximate horizontal location of the utility line. The foregoing information ~~may~~ **shall** be provided to the designer through ~~the~~ means that **may** include, but are not limited to, field locates, maps, surveys, installation records or other means. If the designer requests field locates, the operator shall provide field locates in accordance with the accuracy **standards** set forth in subsection A of § 56-265.19. Marking shall be done by both paint and flags whenever possible;

3. Provide such information about the location of the utility lines to designers for informational purposes only. Operators will not be liable for any incorrect information provided or for the subsequent use of this information, nor will they be subject to civil penalties for the accuracy of the information or marks provided. Any concerns about the accuracy of information or marks should be directed to the appropriate operator; and

4. Respond to the operator-excavator information exchange system by no later than 7:00 a.m. on the sixteenth working day following the designer's notice to the notification center.

Proposal 1

Proposed Amendments to §§ 56-265.17:1 through 56-265.17:3 of the Code of Virginia
Task Force Vote

October 28, 2004

Name	Yes	No	Abstain
Massoud Tahamtani			√
Johnnie Barr	√		
John Combs, IV		√	
David Dewalle		√	
Richard Harrell			√
Rick Pevarski	Absent	Absent	Absent
Gray Pruitt	√		
Scott Shelley	Absent	Absent	Absent
Mark Singer	√		
Randy Trimble	Absent	Absent	Absent
Taylor Turner		√	
Cathy Vick		√	
Chuck Whitley		√	
Mike Woods		√	

Proposal 2

Proposed Amendments to §§ 56-265.17:1 through 56-265.17:3 of the Code of Virginia
Task Force Vote

October 28, 2004

Name	Yes	No	Abstain
Massoud Tahamtani			√
Johnnie Barr		√	
John Combs, IV	√		
David Dewalle	√		
Richard Harrell			√
Rick Pevarski			√
Gray Pruitt		√	
Scott Shelley	√		
Mark Singer		√	
Randy Trimble	√		
Taylor Turner	√		
Cathy Vick	√		
Chuck Whitley	√		
Mike Woods	√		