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LC004292
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - EXCAVATION NEAR
UNDERGROUND UTILITY FACILITIES

Introduced By: Representatives Solomon, Shanley, Newberry, and Phillips

Date Introduced: February 28, 2018

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 39-1.2-1 and 39-1.2-1.1 of the General Laws in Chapter 39-1.2
2 entitled "Excavation Near Underground Utility Facilities" are hereby amended to read as follows:

3 **39-1.2-1. Definitions.**

4 As used in this chapter:

5 (1) "Abandoned utility facilities" means any known underground or submerged utility
6 line or facility that has been permanently taken out of service. For excavation purposes, the
7 abandoned underground utility facilities should always be considered to be active utility service.

8 (2) "Administrator" means the administrator of the division of public utilities and
9 carriers.

10 (3) "Approximate location of underground facilities" means a strip of land extending not
11 more than one and one-half (1 1/2) feet on either side of the underground facilities.

12 (4) "Association" means the group of public utilities formed pursuant to § 39-1.2-4 for
13 the purpose of receiving and giving notice of excavation activity within the state.

14 (5) "Damage" means and includes, but is not limited to, the substantial weakening of
15 structural or lateral support of a utility line, penetration, or destruction of any utility line
16 protective coating, housing, or other protective device or the severance, partial or complete, of
17 any utility line.

18 (6) "Demolition" means the wrecking, razing, rending, moving, or removing of any

1 structure.

2 (7) "Excavation" means an operation for the purpose of movement or removal of earth,
3 rock, or other materials in or on the ground, or otherwise disturbing the subsurface of the earth,
4 by the use of powered or mechanized equipment, including, but not limited to: digging, blasting,
5 auguring, back filling, test boring, drilling, pile driving, grading, plowing in, hammering, pulling
6 in, trenching, and tunneling; excluding the movement of earth by tools manipulated only by
7 human or animal power and the tilling of soil for agricultural purposes.

8 (8) "Governing authority" means the permit-issuing authority.

9 (9) "Immediate danger to life and health" means likely to cause death or immediate or
10 delayed permanent adverse health effects or prevent escape from such an environment.

11 (10) "Inactive utility facilities" means any underground or submerged utility facilities line
12 or facility that has been temporarily taken out of service with the expectation of becoming usable
13 in the future.

14 (11) "Municipality" means a city or town within the state.

15 ~~(11)~~(12) "Person" means an individual, partnership, corporation, association, or a public
16 utility, including a person engaged as a contractor by a public agency and including a public
17 agency.

18 ~~(12)~~(13) "Public agency" means the state or any political subdivision thereof, including
19 any governmental agency.

20 ~~(13)~~(14) "Public utility" means the owner or operator of underground facilities for
21 furnishing electric, gas, telephone, or water service as defined in § 39-1-2(20); and also means
22 and includes, for the purposes of this chapter only, electric transmission companies and
23 nonregulated power producers, as defined in § 39-1-2(13) and (19); any cable television service;
24 and any water company that voluntarily becomes a member of the association provided for under
25 § 39-1.2-4.

26 ~~(14)~~(15) "Public utility facilities" means the underground plant and equipment owned and
27 operated by a public utility for the purpose of furnishing electricity, gas, water, cable television
28 or telephone service; including the underground plant and equipment owned and operated by any
29 water company, not subject to regulation by the administrator of the division of the public
30 utilities, that voluntarily joins the association provided for under § 39-1.2-4. Utility facilities shall
31 include active, newly installed, and inactive or abandoned utility facilities.

32 **39-1.2-1.1. Findings.**

33 The general assembly finds and declares that:

34 (1) Safety and the need for an effective damage prevention program for underground

1 utility facilities should include participation from all stakeholders including excavators and utility
2 companies;

3 (2) To develop a process for fostering and promoting the use of an effective damage
4 prevention program, by all appropriate stakeholders, technologies need to be improved that
5 enhance communications, underground pipeline locating capability, and gathering and analyzing
6 information about the accuracy and effectiveness of underground facility locating programs;

7 (3) Many public, private and municipal utilities are located underground including, but
8 not limited to, gas, water, electric, cable television, telephone and sewers. Excavation in the
9 vicinity of such utilities can be dangerous and the utilities should be marked appropriately to
10 avoid damage, injury or public emergency; and

11 (4) All utilities whether public, private or municipal should strongly consider
12 participation in the utility damage prevention program known as Dig Safe System, Inc. to insure
13 the highest level of safety and awareness of utility facility locations.

14 (5) When underground utility construction and work on public roadways is not well
15 coordinated, the result is otherwise preventable project delays, impacts to the surrounding
16 community and businesses, inconvenience to the traveling public, increased safety risks, damage
17 to newly constructed roadway surfaces, duplicative paving and roadway construction, and
18 unnecessary expense.

19 SECTION 2. Chapter 39-1.2 of the General Laws entitled "Excavation Near
20 Underground Utility Facilities" is hereby amended by adding thereto the following section:

21 **39-1.2-15. Coordination between public utilities and municipalities.**

22 On or before July 1, 2019, each public utility and municipality in this state shall:

23 (1) Develop a three (3) to five (5) year capital improvement plan that will enable both the
24 public utility and municipality to share information to assist each in the planning and
25 synchronizing of their construction, road resurfacing, and other projects related to infrastructure
26 replacement and improvement;

27 (2) Establish a designated coordinator to manage planning and coordination;

28 (3) Establish regular meetings, to be held no less than once per year, between the
29 designated coordinator of each utility and of each municipality; and

30 (4) Post on their respective websites, the information set forth in this section.

31 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO PUBLIC UTILITIES AND CARRIERS - EXCAVATION NEAR
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- 1 This act would require public utilities and municipalities to coordinate their construction
- 2 activities to lessen inconvenience to the public and save money.
- 3 This act would take effect upon passage.

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