

FINAL REPORT
CENTRALIZED COMMUNICATION BETWEEN EXCAVATORS
AND PIPELINE OPERATORS STUDY COMMITTEE

January 1992

AUTHORIZATION AND APPOINTMENT

The Centralized Communication Between Excavators and Pipeline Operators Study Committee was established by the Legislative Council to "[E]xamine the feasibility of adopting a statewide one-call notification system to provide a communication link between excavators and operators of pipelines to reduce the incidence of excavation damage to hazardous liquid pipelines and to the underground equipment. Examine state options in the development, implementation, and oversight of a system which would comply with relevant federal mandates."

Members serving on the Study Committee included:

Senator Al Miller, Co-chairperson
Representative Patrick Gill, Co-chairperson
Senator John Jensen
Senator James Kersten
Senator William Palmer
Senator John Peterson
Representative Phil Brammer
Representative Mary Lundby
Representative Gary Sherzan
Representative Phil Tyrrell

COMMITTEE PROCEEDINGS

The Study Committee was granted one meeting day to conduct its study, and held the meeting on September 26, 1991. Presentations were made by interested persons concerning the establishment of a statewide one-call system.

Mr. Mac McGillivray, an employee of Northern Natural Gas, and Mr. Kevin Burbridge, manager of Iowa One Call, provided an overview of the operations of Iowa One Call. Mr. McGillivray noted that Iowa One Call currently has 134

voluntarily participating member companies. Mr. Burbridge discussed the day-to-day operations of Iowa One Call and discussed the current costs to members of the system.

Ms. Dawn Vance, representing the Utilities Division in the Department of Commerce, testified concerning the existing federal legislation and federal rules which require states to implement statewide one-call systems for natural gas and hazardous liquid pipelines. She also informed the Committee that failure to implement a qualifying one-call system might affect the amount of federal funding provided to the state by the federal Department of Transportation (DOT) Office of Pipeline Safety to partially fund an inspection program (\$85,907 in fiscal year 1990-1991).

Ms. Joan Grimm Solem, Associated General Contractors of Iowa, stated that the contractors are supportive of a mandatory one-call center, noting that it is difficult for excavators to locate underground lines, cables, and pipes at a dig site. She also interjected that there is an increasing number of fiber optic cables being located within the state and the cost of repairing these cables is much more expensive than maintaining a mandatory one-call system.

Mr. John Lewis, Iowa Utilities Association, remarked that members of the association are not unanimously in favor of a statewide mandatory one-call system although certain members were among the original group establishing the current Iowa One Call. He also expressed concern regarding the excavator liability provision of the proposed draft language presented by the Iowa One Call.

Mr. Bernie Koebernick, Iowa Association of Electric Cooperatives, stated that the cooperatives association has not yet established a position on a statewide one-call system, but expressed concern regarding several provisions in the bill, and noted the significant burden the bill imposes on the agricultural sector of the state.

Mr. Glenn Hawkins and Mr. Jerry Adair, Mid-America Pipeline Company, stated that Mid-America supports a mandated, all-inclusive, one-call system and Mr. Adair outlined the elements he believes are necessary to establish an effective system.

Mr. Dean Schade, League of Iowa Municipalities, noted that his comments were on behalf of the League, the Iowa Chapter of the American Public Works Association, and the Iowa Association of Municipal Utilities. He indicated that a statewide one-call system for gas pipelines, hazardous liquid pipelines, and fiber optic cables has merit, but that for other underground facilities, a voluntary approach would be more appropriate.

Mr. Jack Kegel, Iowa Association of Municipal Utilities, stated that members of the association are not in agreement on this issue, with some members

supportive of a statewide one-call system and others expressing the opinion that local community systems are operating well. He also suggested that if a mandatory one-call system is established, nongas and nonhazardous underground facilities should be granted a two- to three-year phase-in period.

Mr. Todd Schultz, Iowa Telephone Association, stated that the telephone association is opposed to mandatory participation in a one-call system, but noted that the association's position could change if no exemptions are made for any underground facilities or persons engaging in excavation activities, including government entities.

Mr. Tom Graves, Iowa Cable Television Association, stated that the association is opposed to mandatory participation of the cable television industry. He suggested that it would be more appropriate for any legislation to include an incentive to participate in a voluntary system, rather than requiring all underground facilities to participate.

COMMITTEE DISCUSSION

The Committee reviewed a draft proposal submitted for consideration by the Iowa One Call, Underground Plant Location Service, Inc. The draft proposal establishes a statewide notification center which is to be organized as a nonprofit corporation. An excavator is required to provide verbal notice of any excavation to the center at least 48 hours prior to commencement of the excavation. Upon receipt of notification of the excavation, an operator is to locate and mark all affected underground facilities within 48 hours. The proposal requires all owners of underground facilities to participate in the system. The proposal also establishes the liability of an excavator and provides for the assessment of civil penalties against a person failing to meet the requirements established relating to notice, and location and marking of underground facilities.

The Committee also discussed the appropriateness of including a positive response provision in the draft, but declined to make a specific recommendation concerning this issue. However, noting that this is an issue which a standing committee may examine if consideration is given to a one-call system, the Committee directed that mention of this discussion be included in the final report, in addition to further information summarizing the approaches used by other states in regard to a positive response requirement. According to the most recent American Public Works Association's Excavators Damage Prevention Guide and One-Call Systems Directory, 30 states and the District of Columbia require some form of positive response. This number may be somewhat misleading as several state statutes examined do not seem to provide for notification of the excavator in the event no facility is affected, unless the notification is implied through the interpretation of these statutes.

The state statutes reviewed provide a general requirement to mark the facility or notify the excavator that no facility exists in the area or within a defined distance from the area of the proposed excavation. No state was found which requires a particular method of notification although one state provides that the notice is to be by telephone or in writing.

COMMITTEE RECOMMENDATIONS

The Committee recommended that the draft proposal be redrafted for submission to the appropriate standing committees in the Senate and House of Representatives for consideration during the 1992 Legislative Session with the following changes or recommendations:

1. That the draft provide for the participation of all underground facility operators, subject to further review by the standing committees.
2. That a system of penalties be developed which distinguishes between natural gas and hazardous liquid pipelines, underground facilities regulated by the utilities board, and all other underground facilities. The civil penalty for natural gas and hazardous liquid pipelines (the facilities required by federal rule to be included under a notification system) would be an amount of not more than \$10,000 for each violation for each day that the violation persists up to a maximum amount of \$500,000. All other underground facilities would be subject to a civil penalty of between \$100 and \$1,000 for each violation for each day that the violation persists for a maximum of 20 days.
3. That all civil penalties assessed and collected be deposited in the general fund of the state.