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National Energy Board
444 – 7th Avenue SW
Calgary, Alberta
T2P 0X8

Attention: Patrick Smyth

Via E-mail

February 19th, 2009

Re: Proposed Damage Prevention Regulation – Draft Guidance Notes

Dear Mr. Smyth,

Consolidated Utility Services Canada ULC (CUS) is pleased to have the opportunity to provide comment on the *Proposed Damage Prevention Regulation Draft Guidance Notes – February 2009*.

By way of introduction, Consolidated Utility Services is North America’s third largest and Western Canada’s largest provider of underground utility and pipeline locating services. We currently operate in eighteen (18) states (including the state of Virginia) and four provinces, B.C., Alberta, Saskatchewan and Manitoba.

Our comments provided contemplate currently existing legislation and industry recommendations on best practices. These include the *Alberta Pipeline Act*, the *Damage Prevention Process in Alberta* as published by Alberta One-Call in conjunction with the Alberta Damage Prevention Council, *IRP 17 – Ground Disturbance and Damage Prevention*, and CAPULC’s (Canadian Association of Pipeline and Utility Locating Contractors) *Canadian Locator Technician Standards* and *Locating Industry Recognized Practices*.

Comments as follows:

Proposed Regulatory Text⁶ – Section 5 – Standards for locates

The pipeline company shall develop, implement and maintain standards for locates of pipelines including

- a) *The required qualifications and competencies for locators;*

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- b) *The type and quantity of surface marking to be used*
- c) *The procedures for establishing the depth of cover over the pipe; and*
- d) *The identification to be given to locator’s*

Although not opposed to individual pipeline companies developing their own internal standards on locate practices, CUS challenges the proposed regulatory text on:

- a) *The required qualifications and competencies for locators;*
- d) *The identification to be given to locator’s*

The lack of standardized locate practices has been a long standing industry issue. To best address these concerns CUS recommends that it would be most prudent to evolve locating standards through a recognized organization such as CAPULC. To have individual pipeline companies defining locator qualifications and competencies would only serve to widen the gap on the standardization effort. What may be acceptable practice within one company may not be recognized by another. As locate companies, in general, provide locate services to a diverse group of clientele, the expectation of managing locate competencies/qualifications unique to each client becomes virtually impossible.

On the issue of identification for locators to which the NEB offers the following text: *“Pipeline companies shall ensure that locators carry identification they have been trained and are qualified to locate specific types of facilities on the company’s behalf.”* CUS suggests this issue does not require a regulation as this process should be managed through due diligence found within a robust vendor pre-qualification process. It has been our experience that the most prevalent vendor/contractor management applications to which our clients subscribe are, ISNetwork and the Canadian HSE Registry. Membership in such ensures that basic information such as, COR participation, WCB accounts/statistics, liability insurance certificates, safety manuals, and OH&S policies are in place before work is awarded.

Subject to the above comments CUS recommends the removal of bullets a) and d) under Proposed Regulatory Text⁶ – Section 5 – Standards for locates. And further recommends removal of Proposed Regulatory Text⁷ – Section 6 – Records of locators in its entirety.

Proposed Regulatory Text¹⁷ – Section 16 – Excavations within safety zone

- d.) *not more than 30 days have elapsed after the date of the locate report*

Time Period

Unless otherwise specified, locate reports are considered valid for a period of thirty days after a locate has been completed or until such time as the markings no longer provide clear direction on facility location (whichever occurs sooner)

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CUS encourages the NEB to contemplate the inclusion of the following text regarding the *Lifespan of Locates* as detailed in the *Damage Prevention Process in Alberta- Roles, Responsibilities and Expectations of the Stakeholders in the Prevention of Damage to Buried Facilities*.

Lifespan of Locates

Locates are valid for as long as the locate marks are visible but generally for not more than 14 calendar days from the date they were provided. Locates may be valid for 30 calendar days from the date they were provided subject to certain conditions' being met.

If a ground disturber doe not commence a proposed ground disturbance within 14 calendar days of the date locates were provided, the ground disturber must request new locates.

If a ground disturber has commenced a proposed ground disturbance within 14 calendar days of the date locates were provided but has not completed the ground disturbance, the locates are valid for 30 calendar days from the date they were provided, subject to the following conditions:

- a) the locate marks remain visible or the ground disturber has provided more permanent references or the ground disturber has exposed the buried facilities in conflict with the proposed ground disturbance and documented their actual location;*
- b) the ground disturber's activity at the site has not been interrupted, except for
 - i. maximum 4 calendar day periods over weekends, or*
 - ii. any period of time where weather situations dictate longer interruptions or interruptions during the week provided that during such interruptions the site must be monitored by a competent person and such monitoring must be documented;*and*
- c) the ground disturber's presence at the site remains evident during such interruptions (e.g. fencing, barricades, signage, equipment on site, job shack, evidence of work in progress).*

If a ground disturber has not completed a ground disturbance within the extended period of 30 calendar days from the date locates were provided, the ground disturber must request new locates.

On receipt of a request for new locates, individual operators of buried facilities, in consultation with the ground disturber, will determine whether a new locate is required or the lifespan of the existing locate can be extended.

For large or long term projects, it is expected that the ground disturber will break the project into sections when placing locate requests to better coordinate the provision of locates with the progress of the ground disturbance.

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If at any time the ground disturber is of the opinion that the locate marks are not adequate for the successful and safe completion of the work, the ground disturber must request new locates.

In closing, CUS wishes the NEB to note that Alberta is currently the only province with legislated One Call membership requirements. In order to facilitate the proper regulatory and legislative framework for Damage Prevention to utility and pipeline infrastructure, long term recommendations should at minimum require legislated One Call participation across Canada.

Please contact us directly should you require further information or wish to discuss any of the recommendations contained herein.

Regards,

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