



# **ASSOCIATED GENERAL CONTRACTORS OF MISSOURI, INC.**

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November 3, 2009

Honorable Robert M. Clayton, III  
Chairman  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

Dear Chairman Clayton:

In follow-up to our October 29 telephone conversation I wanted to respond to revisions to the Underground Facilities Safety and Damage Prevention Act which were the subject of the October 21, 2009 meeting organized by the PSC. As I explained to Bob Leonberger in advance of that meeting, I was unable to attend the October 21 meeting due to a conflict with another meeting scheduled long before we received notice of the October 21 Stakeholders Roundtable Meeting on October 14. I was able to identify a member of our Legislative Committee who was available to attend. I know the other Missouri AGC chapters had the same conflict which prevented them from attending.

The revisions to Sections 319.010 through 319.050 RSMo proposed in the 10/8/09 Draft distributed by the PSC are extensive. In fact, they are just as extensive as legislation establishing a statewide notification center in 1991 (SB 214 and 264) and even more extensive than the phased-in mandatory utility membership in a statewide notification center passed in 2001 (HB 425). Less extensive revisions were just passed in the 2008 session of the Missouri General Assembly (HB 1779).

As noted in our telephone conversation, the legislation passed in 1991 and particularly in 2001 were preceded by months if not years of meetings and exchanges of proposals between utilities, the construction industry and Missouri One Call Systems, Inc. Therefore your October 8 draft proposing comprehensive changes came as a great surprise little more than a month before pre-filing of bills for the 2010 session.

It is reassuring that the changes are not necessarily proposed as legislation for the 2010 session. I appreciate your commitment not to proceed with a bill without the full input of all parties with interests in the legislation.

AGC of Missouri will provide written comments on the 10/8/09 Draft. However, we will not be able to provide those comments by the November 2, 2009 date suggested on the agenda for the October 21 meeting. AGC of Missouri has worked with its Legislative Committee on prior legislation and has formed a "One Call Task Force" which functions as a subcommittee on this

legislation. We have a Legislative Committee meeting scheduled for December 10. AGC of Missouri would be in a position to provide more detailed comments shortly after that date.

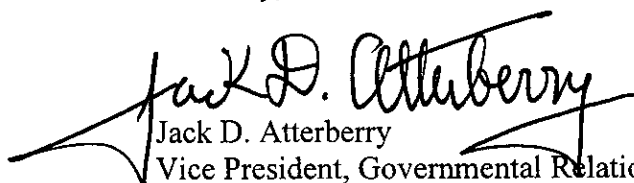
Major issues in your 10/8/09 Draft for AGC of Missouri members will be:

- 319.026.6 (Page 9) – Fifteen day life of ticket for routine projects.
- 319.026.9 (Page 9-10) – Excavator's responsibility for project completion notice to the excavation center.
- 319.030.6.8 and .9 (Pages 12 and 21) – Additional responsibility on excavator not to proceed unless notice of marking has been received from utility and duty for excavator to observe the presence of unmarked facilities.
- 319.040.1 and .2 (Page 13) – Revision of liability provisions for injury, loss or damage.
- 319.046 (Page 17-18); 319.065 (Pages 19-20) – Enforcement of statute and penalties levied through an Underground Damage Prevention Review Board.

We will provide you with comments based on our members' input as soon as possible, which would be expected to be about mid-December.

Thank you for the opportunity to further explain our position.

Sincerely,

  
Jack D. Atterberry  
Vice President, Governmental Relations

jda/dm

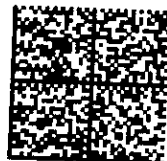
Copy: Bob Leonberger, PSC, Gas Safety  
Phil Hoher, Chairman of Board, AGC of Missouri  
Rob Loch, Chair, AGC Legislative Committee



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