

319.010 DEFINITIONS:

(20) "Ticket life", a period of fifteen (15) calendar days after the date a notice of intent to excavate is submitted to the notification center, after which the excavator must submit a new notice of intent to excavate to the notification center if the excavation associated with the original notice has not been completed;

[The primary purpose of a "ticket life" is to ensure marks are clear and always usable. Any increase in the number of days in a "ticket life" increases the likelihood of unusable markings as the ticket ages thereby increasing the potential for damages. AT&T Missouri recommends a 15-day ticket life.]

(7) "Marking", the use of paint, flags, stakes, or other clearly identifiable materials to show the field location of underground facilities, or the area of proposed excavation, in accordance with the "Missouri Marking Standards" as adopted by the MOCS Board of Directors and as revised from time to time.

319.026

Section 2. Notices of intent to excavate given pursuant to this section shall contain the following information:

(5) A detailed description accepted by the notification center sufficient for the location of the excavation, limited in size to the smaller of 500 feet along the same road, or 150 foot radius of a single intersection, or a single address, by any one or more of the following means: by reference to a specific street address, or by description of location in relation to the nearest numbered, lettered, or named state or county road or city street for which a road sign is posted, or by latitude and longitude including the appropriate description in degrees, minutes, and seconds, or by state plane coordinates

Add to Section 5: Hand dig and confirmation of horizontal and vertical location of underground facilities.

The excavator shall not use power-driven equipment within the marked approximate location of such underground facilities until the excavator has made careful and prudent efforts by the use of hand tools or soft dig methods to expose and confirm the horizontal and vertical location of the marked facilities in the vicinity of the proposed excavation.

319.026 (continued)

Section 6: Non-owner not allowed to "refresh" marks.

When markings have been provided in response to a notice of intent to excavate, excavators may commence or continue to work within the area described in the notice for so long as the markings are visible. If markings become unusable due to

weather, construction or other cause, the excavator shall contact the notification center to request remarking. **Under no circumstances shall an excavator or non-owner (except owners authorized agent) refresh the marks provided by a facility owner or its authorized agent.** Any renewal notice shall be given in the same manner as original notice of intent to excavate, and the owner or operator shall remark the site in the same manner, within the same time, as required in response to an original notice of intent to excavate. Each excavator shall exercise reasonable care not to unnecessarily disturb or obliterate markings provided for location of underground facilities. If remarking is required due to the excavator's failure to exercise reasonable care, or if repeated unnecessary requests for remarking are made by an excavator even though the markings are visible and usable, the excavator may be liable to the owner or operator for the reasonable cost of such remarking.

391.037

Section 2 Trenchless excavation-Boring

The excavator shall not use power-driven equipment for trenchless excavation, including directional drilling, within the marked approximate location of such under-ground facilities until the excavator has excavated a hole and ~~made careful and prudent efforts to~~ confirmed the horizontal and vertical location thereof in the vicinity of the proposed excavation through methods appropriate to the geologic and weather conditions, and the nature of the facility, such as the use of ~~electronic locating devices~~, hand digging, pot holing when practical, soft digging, vacuum methods, use of pressurized air or water, pneumatic hand tools or other noninvasive methods as such methods are developed. Such methods of confirming location shall not violate established safety practices. Once the horizontal and vertical location of such underground facilities is established, the hole(s) shall remain open during the boring process to enable the boring device to be visually observed by the excavator as it safely crosses the identified underground facilities. Nothing in this subsection shall authorize any person other than the owner, the owners authorized agent, or operator of a facility to attach an electronic locating device to any underground facility. For excavations paralleling the underground facility, such efforts to confirm the location of the facility shall be made at careful and prudent intervals. The excavator shall also make careful and prudent efforts by such means as are appropriate to the geologic and weather conditions and the nature of the facility, to confirm the horizontal and vertical location of the boring device during boring operations. Notwithstanding the foregoing, the excavator shall not be required to confirm the horizontal or vertical location of the underground facilities if the excavator, using the methods described in this section, excavates a hole over the underground facilities to a depth two feet or more below the planned boring path and then carefully and prudently monitors the horizontal and vertical location of the boring device in a

manner calculated to enable the device to be visually observed by the excavator as it crosses the entire width of the marked approximate location of the underground facilities.

319.040 Rebuttable Presumption of Negligence

(concur with gas company recommendation)

Section 2.

The failure of any underground facility owner to become a member of the notification center shall be a rebuttable presumption of negligence on his or her part in the event that such failure shall cause injury, loss or damage.

319.055 Damage Data Reporting.

AT&T Missouri generally opposes damage reporting. However, if such reporting is required, it should be limited to annual summary data reporting via the DIRT reporting tool implemented by the Common Ground Alliance (CGA.)

319.060 Quality Assurance, review and measure of locating performance.

AT&T Missouri has implemented various locate performance measures to, among other things, monitor the accuracy of locates, and it is our understanding that other facility owners have also done so. We join with other facility owners who uniformly agree that there is no need nor justification for the Commission to perform similar activities, such as initiating a rule making intended to develop performance measures. No rule making is needed, but should one commence, its purpose should be strictly limited to encouraging facility owners to develop and implement their own internal performance measures, to the extent that they may not already have done so.

319.065 Establishing enforcement and review boards.

The facilities owners have previously supplied the Commission with quantitative data demonstrating that the overwhelming causal factor related to underground facility damage is the excavator's having failed to call for locates or not having a valid ticket. AT&T Missouri suggests that it would be more effective for the Commission to focus on increased and improved awareness of such occurrences, and methods designed to limit them, such as one or two day statewide "Damage Prevention Summits" (similar to the Arkansas and Mississippi model), wherein participants should include the Missouri Attorney General's office, facility owners, excavators, Missouri One Call Center (MOSC), damage prevention experts, insurance companies, equipment exhibitors, and the Occupational Health and Safety Administration (OSHA). Such summits can be an invaluable vehicle for providing technology demonstrations and continuing education opportunities.

Any and all enforcement duties and responsibilities should be placed with the Attorney General's office. There is no need to attempt to divide and allocate enforcement duties among multiple agencies;. No need to do so has been demonstrated and any such allocation would lead to overlapping, if not conflicting, roles among agencies, and increased government and industry costs. We see no prospect for any benefits that would offset these negative consequences.

319.070 Proposals related to facility depth.

Missouri currently has standards addressing this issue therefore there is no need to further codify this matter in this legislation.