

David Ferguson

From: Ron McCuller <Rmcculle@GPTX.org>
Sent: Friday, March 14, 2014 3:04 PM
To: David Ferguson
Cc: Don Postell; Mona Lisa Galicia; Anna Doll
Subject: Comments on Draft Rules Chapter 18

Mr. Ferguson:

The City of Grand Prairie concurs with and reiterates the comments submitted by TML Deputy Director and General Counsel regarding proposed amendments to Chapter 18:

- Section 18.1(d)(2)(Removal of the exemption for movement of earth less than 16 inches deep.) This provision seems untenable for many of our cities. Simple repair and maintenance projects, such as accessing meter boxes, valve boxes, or sewer cleanouts, would become subject to the rules, which would place a heavy burden on municipal water and sewer utilities. We are simply not staffed to deal with the increased demand this requirement will place on them.
- Section 18.2(27)(Tolerance zone modifications.) These modifications will make it practically impossible to replace infrastructure that is directly below a gas line, which obviously by the very placement of the gas line above the line below, means that the lower line was placed first. This will and is already leading to the avoidance of general shared “utility Easements” in favor of user specific easements, which translates into greater cost for everyone and more land acquisition, probably the greatest factor in delaying new infrastructure projects that are sorely needed.
- Section 18.4(h)(stopping excavation on encountering an unmarked line) read in conjunction with 18.4(i)(four hour waiting period) seems burdensome and could drastically slow down municipal water or sewer repair projects, leaving customers without service for long periods, creating unsanitary and unacceptable inconvenience for many citizens. There also is some question as to whether this item refers to any pipeline and whether the requirement to stop work applies if an excavator can determine that it is clearly an abandoned pipeline.

Excavators that are currently in very good standing are still being judged on historical occurrences going back several years to the initial enforcement period of the program. One suggestion in the regard is that penalty enhancement should focus on a much shorter and more recent period, which reflects current compliance rather than being weighted toward earlier occurrences before full compliance practices were implemented. Fines collected for the smallest infractions have generally been viewed as unfair and may work to encourage excavators to ignore/hide damages that may cause future service disruptions as well as injury to persons.

An additional comment is regarding exemption of TxDot from the requirements. Like TxDot, cities are nonprofit and must provide essential services to citizens, we believe cities should enjoy this same exemption.

In short these restrictions do constitute yet another unfunded mandate that will place additional burdens and expense on cities to be passed along to residents of the State of Texas.

Thank you for your consideration.

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[Men Never Do Evil So Completely and Cheerfully As When They Do It From Religious Conviction...Blaise Paschal \(1623-1662\)](#)