

# PA Underground Utility Line Protection Law

**There's  
a new  
Sheriff  
in town**



**ACT 50:  
One  
Year  
Later**



# AGENDA

- UULPA History
- Requirements of the Act
- What's an AVR
- Adapting to the new Law
- The AVR - DPC process, what to expect
- Project Owner requirements
- Status in Pa & Challenges



# Governor signed Act 50 in October 2017, took effect April 2018

- Discussion in regard to the new One Call Law began in 2013.
- Legislation for a new Law was unsuccessful in 2015 & 2016, current Law was extended. Everyone likes their exemption.
- There were a number of obstacles in getting the legislation passed, mostly political.
- Two key components for a successful Law begin with:
  - a. a budget
  - b. a staff

In PA, the bill for enforcement is split 80% regulated utilities and 20% One Call.

PA PUC (Public Utility Commission) created a Damage Prevention Staff.



# The Law has several new requirements

*As important as what is new is, the provisions in the Act that were not being enforced previously and are a focus of the PUC.*

- ✓ The Act gives the PUC jurisdiction over ALL excavation in Pennsylvania, not only Natural Gas Utilities which had been the case.
- ✓ All damages and any violations will be reported to PA One Call (POCS) electronically by completing an Alleged Violation Report (AVR).
- ✓ An AVR is to be completed for a damage or violation by all applicable One Call Stakeholders within prescribed time frames.

## Act 50 New Requirements cont'd

- ✓ A Damage Prevention Committee was formed that meets monthly and takes action on AVR's (Alleged Violation Reports) which could result in an administrative penalty or educational requirement.
- ✓ Facility Owners are required to maintain records of abandon lines and mark, locate or identify those lines if possible, based on those records.
- ✓ Existing Facility Owner(s) can declare a project as Complex requiring a pre-construction meeting intended to develop a mutually agreeable locate schedule.



# Alleged Violation Reports – AVR's

- Stakeholders are required to report ALL damages and violations of Act 50 as follows:
  - Within 30 Days:
    - Designers – report 100%
    - Facility Owners – report any damage in excess of \$2,500 or all cases where an Excavator has damaged your facility more than twice in 6 months (Frequent Offenders).
  - Within 10 Days:
    - Project Owners – report 100% of all damages including 1<sup>st</sup> & 2<sup>nd</sup> party damages, regardless of type.
    - Excavators – report 100% of damages, regardless of type
- The AVR form can be found at [www.Pa1Call.org](http://www.Pa1Call.org) under the Enforcement Tab.

## So what does enforcement look like?

**DPC Goal - Reduce damage to underground facilities by 50% in 5 years.**

- **DPC consists of (13) Members- Industry Reps, serving 3 year terms.**
- **Meet monthly to hear Discussion and Omnibus Case recommendations provided by the PUC Damage Prevention Investigators.**
- **Stakeholders will be notified to appear when an AVR involving them is being reviewed. Good documentation & photo are impactful.**
- **Actions can be in the form of an administrative penalty or education requirement and are approved by the PUC. It is not intended to be a legal forum.**
- **Parties accept or reject the findings which may result in a Formal Complaint.**



# So what will help adapting to the new Law?

## Recognize:

- The Project Owner pays the bill and is responsible to promote behaviors consistent with the Act.
- Damage Prevention begins in the Design phase and Complex Project Meeting notices are required, not optional.
- The Excavator is responsible to determine the precise location of a marked facility.
- Damage Prevention in PA is a two-way street and all roads lead back to the Project Owner; whether you're The Locator or The Excavator.
- "If you didn't document it, it didn't happen" and documentation, with great photos, is the only known cure for that horrific disease known as *Ex-can-esia*.



## So what does the AVR/DPC process look like?

- One Call receives the AVR, gathers available ticket information and pushes that info to the PUC Damage Prevention Supervisor (DPS).
- DPS assigns Cases to Damage Prevention Investigators (DPI) who review, apply Act 50 provisions and may reach out to Stakeholders to gather additional facts. A determination is made and these Cases go back to the DPS.
- Discussion & Omnibus cases for the next meeting are selected based on:
  1. A Stakeholder requests through the DPS a specific case be discussed.
  2. A Damage Prevention Committee Member can request a case be discussed.
  3. The PUC selects the case load based on the following criteria:
    - a. Impact on the public (service outage, inconvenience)
    - b. Significance to the public (potential safety issues, hazardous conditions)
    - c. Controversial issues & conflicting evidence (rely on DPC to resolve conflicts)

# Lining up the Discussion cases

- Once the case load is finalized, the list of Discussion & Omnibus cases are forwarded to DPC members via US mail & e-mail and are available in the secure online system two weeks prior to the meeting date.
- An invite to appear is provided to all stakeholders involved in a Discussion case (email to the party who filed the AVR & hard copy).

## Pre-meeting Preparation:

- Stakeholders can opt to attend or not. Your absence and any info provided by other stakeholders will be considered by the DPC to reach a conclusion.
- Evidence and time stamped documentation of your case is key to generating DPC questions and supporting your position.
- Quality photos are impactful and consider the DPC members experience/view.



# Day of the DPC Meeting

- Welcome by Chair, pledge of allegiance, legal script & safety moment
- Omnibus cases – Note any cases that were pulled since the agenda was made public and request a vote to accept DPI recommendation on remaining cases.
- Discussion Cases – Chair calls to order, DPS reads case & calls stakeholders to the podium.
- DPC provides questions and attendees provide additional facts/position.
- DPC members involved in a case can speak, make a motion, but must abstain from the vote. The DPC can accept, amend or dismiss the original DPI report.
- Chair calls for a motion, any discussion, amendments, calls for vote, any abstentions are documented.
- Repeat the above process until the slate of cases is completed.





Damage Prevention Committee Meeting

Next meeting date is:

**August 13, 2019**





# What are my options if involved in a case?

After the meeting, you will receive the final DPC determination for any Discussion or Omnibus cases, they are also posted on the PUC website.

## Discussion cases – you can accept or reject the DPC determination

- If you accept the DPC determination, you process the attached invoice.
- If you reject, you notify the DPS in writing, that you are rejecting the DPC determination which may result in a formal complaint being filed by Investigation & Enforcement (I&E).
- Any education requirements will be sent to you under a separate letter as it includes a case # you will need to provide when you attend the educational session. Education locations, dates and times are posted on the POCS website under the events calendar.

## Omnibus cases – you can accept or reject the DPI determination

- If you accept the DPI recommendation, you process the attached invoice.
- If you reject, you notify the DPS in writing, that you want the case moved to discussion.

# Everyone's 3<sup>rd</sup> Party Damage, is by someone's 1<sup>st</sup> or 2<sup>nd</sup> party excavator

- The Project Owner is the stakeholder in the best position to prevent damages given they control the purse strings.
- Consider section 6, responsibilities of the Project Owner:
  - 6.1 – to utilize sufficient quality levels of S.U.E. (Subsurface Utility Engineering)
  - 6.2 – to timely respond to requests from excavators pursuant to section 5.15
  - 6.3 – to not release to bid or construction any project until after final design is completed
  - 6.4 – to participate in design and preconstruction meetings, either directly or through a representative
  - 6.7 – to file an AVR for Damages by Company crews, Subcontractors or any violation of the Act



## Status in Pennsylvania

- April 28, 2018 – to date 2019, there are **8,328** AVR's generated by Stakeholder's.
- There have been five Damage Prevention Committee Meetings and to date there has been **more than \$500,000** in administrative penalties assessed.
- PO Focus on design/pre-construction phase, clause 5.15 and performance

Short list of challenges going forward:

- How do you manage the AVR backlog?
- Promote actions that are having the most impact on improving safety.
- Provide standard reports & metrics so transparency is maintained.
- Recognize some will continue to look for loopholes versus collaborating.
- Education and Awareness that can overcome more than 20 years of.....  
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# Do you have any questions?

Remember:

