



March 19, 2009

State Representative Terri J. Austin
Indiana House of Representatives
200 W. Washington St.
Indianapolis, IN 46204-2786

Dear Representative Austin:

The Indiana Chapter of the National Utility Contractors Association (NUCAI) feels strongly that several items within Senate Bill 487 must be reconsidered. NUCAI's members believe that historically laws regarding underground damage prevention and the current bill under consideration by the House are inequitable for excavators.

Each year, millions of dollars in lawsuits, penalties, and insurance claims are issued due to damages to facilities. In most every case, if proper due diligence was taken, certain requirements were in place, and with proper accountability, the damages would not occur.

The following are items that NUCAI recommends you as the sponsor, and the House Committee on Commerce, Energy, Technology, and Utilities consider prior to agreeing on final edits.

- Meaningful inclusion of excavators on the Advisory Boards outlined in the bill and all other pertinent Boards
- Penalties for both the excavator and utility should be equally strict
- Excavators should be given the authority to sue the utility in the event of a damage for issues such as downtime; the law does provide authority to the utilities to sue excavators or locators
- More accountability should be set for utilities to stand behind their locates for accuracy and timeliness
- Locates should be marked horizontally and vertically with standards for minimum and maximum depths – currently they are only marked horizontally
- Maximum mark widths (in excess of facility widths) should be limited
- Locators should be prohibited from simply writing "cannot identify" or a similar statement on the ground and considering their portion complete
- The bill adds a requirement for excavators to "white line" excavation areas when needed by the locators; however, the wording on the definition of "need" is not clear – it should include when and how the excavator will be so notified
- Clarify that until the utility facility is actually uncovered, an excavator need only hand dig 2 feet outside of the mark
- Unless physically removed, all utilities should keep records on, regularly mark, and differentiate in their markings all abandoned, as well as live, utilities in an area
- Clarify that when so requested, both sides of a street will be marked per request, and that requests will also be fully and timely honored for design and preconstruction phases of a project
- Specific need to locate sewer laterals should be stated
- Excavators are to notify of "evidence of unmarked facility". "Evidence" should be defined.

Members of NUCAI would be glad and appreciative to meet with you regarding this bill and provide more detailed input on the points above. The association does believe that as a servant of the public you have researched this bill thoroughly; however, also believe that excavators have a strong belief that this bill can be edited in a fairer manner for contractors. I can be contacted at 317-328-2153, ext. 223 or by email at sgrimes@nucaofindiana.com.

Thank you in advance for your consideration and time.

Sincerely,

Scott Grimes
Executive Director
National Utility Contractors Association of Indiana