

515-9-4-.13 Procedures for Large Projects

(1) Purpose and Scope:

(a) The purpose of this Rule is to set forth procedures that provide for the waiver in writing, of the 48 hour notice and the 21 calendar day expiration for any projects that cannot be located pursuant to O.C.G.A. § 25-9-7. This Rule is necessary in order to allow proper planning and scheduling of the locating of utility facilities within the geographical area of a designated “Large Project”. Because most large projects require multiple re-stakes, it has proven difficult and cumbersome for facility owner/operators to respond to locate requests within the 48 hour notice time frame normally required by the Georgia Utility Facility Protection Act (“GUFPA”). Excavators on such large projects lasting for months and even years have similarly found it cumbersome and oppressive to have a locate request expire after 21 calendar days and have to reapply for renewal or refreshing of such locate request repeatedly over the life of a large project.

(b) This Rule allows for parameters to be set for all parties involved in a large project so that such parties may enjoy more flexibility and less rigidity in reporting without any loss or sacrifice in the record-keeping, locating of utility facilities, prevention of damage to such facilities, and public safety protections which GUFPA was designed and intended to implement.

(c) Unless hereinafter specifically excepted, all other provisions of O.C.G.A. § 25-9-1 et. seq., shall apply to large projects.

(d) Nothing in this Rule shall prohibit any person from requesting a large project request for any other project.

(2) General Procedures:

(a) Upon an excavator’s contacting the Utilities Protection Center (“UPC” dba “GA811”) to procure a locate request under Commission Utility Rule 515-9-4-.02(c) (through the process of handling such request(s) for one or more locates) and UPC determining that the locate request(s) meets the definition of a large project, the UPC shall provide instructions for excavator(s) that the involved excavation project shall be treated as either a linear or site specific large project under the Commission’s Rules.

(b) Unless renewed beforehand by the excavator:

- 1) Site Specific Large Project Excavation Notification shall expire once ninety (90) calendar days have elapsed from the date of activation. The excavator may re-new the notification as necessary in accordance with the timelines provided for in the large project request so long as excavation on the project continues. This notification shall also expire ninety (90) calendar days following the most recent renewal.
- 2) Linear Large Project Excavation Notification length shall be defined by the excavator, but shall have a minimum duration of ninety (90) calendar days. The excavator may extend the notification as necessary in accordance with the timelines provided for in the large project request so long as excavation on the project continues.

(c) Nothing in this Rule exempts any facility owner/operator, excavator, locator/utility or any other person from the duty he or she would otherwise have under GUFPA or the Commission's Utility Rules to report damages to buried utility facilities.

(d) For all excavation projects that meet the size parameters defined in 515-9-4-.02(c) [Linear Large Projects] and 515-9-4-.02(c)(ii) [Site Specific Large Projects] the excavator shall give notice to the UPC as a Large Project request pursuant to this Commission Rule. Failure of any person to so act shall be a violation of the Commission's Large Project Rule and may subject each person to civil penalties pursuant to Georgia Law and the Commission's Rules O.C.G.A. § 46-2-91, which provides for an initial civil penalty not to exceed \$15,000.00 for *each* such violation and an additional civil penalty not to exceed \$10,000.00 per day, for *each* day during which *each* such violation continues.

(e) Good Faith Negotiation Required. The failure of any party to negotiate in good faith shall constitute a violation of the Commission's Large Project Rules and may result in the imposition of civil penalties under O.C.G.A. § 25-9-13 and/or 46-2-91 as well as any other penalties that may be imposed pursuant to Georgia Law or the Commission's Rules. The failure of any party to negotiate in good faith shall also result in all locates being performed in accordance with the procedures and timelines set forth in O.C.G.A. § 25-9-1 *et. seq.* with the cost for all such locates to be paid for by the party having negotiated in bad faith.

(f) In the event that an excavation project meets the definition of both a linear and site specific large project, the excavation project shall be deemed as a linear large project.

(g) Authority for the locate time period extensions and detailed processes established herein can be found in the applicable provisions of O.C.G.A. § 25-9-7(j).

(h) All duly authorized subcontractors working under a linear or site specific large project request shall be responsible for compliance with all of the laws of the State of Georgia and the Commission's Rules.

(3) Linear Large Project Procedures

(a) Upon the UPC's issuing a particular locate request or requests that qualify as a "Linear Large Project" as defined by Commission Rule 515-9-4-.02(c), a mandatory Linear Large Project Planning Meeting Notification shall be issued by the excavator, no less than 10 business days prior to beginning excavation or blasting activities, to the UPC. Such notification shall include the excavator's suggested date, time, location, and contact person for the proposed meeting. The date of the mandatory meeting shall be a minimum of 48 hours after the notification is submitted to the UPC, starting at 7:00 a.m. the next business day and excluding non-business days. This mandatory linear large project meeting notification requirement shall not apply to reactivated linear large projects that have continued in full force and effect under an ongoing marking agreement, and without deactivation. Notwithstanding the above, nothing in this Rule shall prevent the excavator and the utility facility owner/operators from choosing to meet otherwise.

(b) After receiving the Linear Large Project request, the UPC shall notify all affected facility owners or operators of the mandatory Large Project Planning Meeting. The mandatory Linear Large Project Planning Meeting shall be scheduled no less than 5 business days prior to beginning excavation or

blasting activities. Each facility owner/operator shall attend and provide an automated response to the UPC indicating agreement to the date and time of the mandatory Linear Large Project Planning Meeting within 2 business days of such notice, through the use of the Positive Response Information System (PRIS).

(c) All provisions of this “Linear Large Project” rule shall apply to the utility facility owner/operator and all locates shall be conducted pursuant to these rules and the negotiated marking agreement arising here from.

(d) No later than two business days following the mandatory Linear Large Project Planning Meeting or upon entry of PRIS codes by all impacted facility owner/operators, whichever comes first, the UPC shall update the status of the request from a “Linear Large Project Planning Meeting Notification” to a “Linear Large Project Excavation Notification.” At that point, the “Linear Large Project Excavation Notification” shall become an active request and shall be transmitted by the UPC to all affected utility facility owner/operators.

(e) At the Linear Large Project planning meeting, a working relationship shall be established between the excavator and the facility owner/operator representatives. The excavator and facility owner(s)/operator(s) or locator(s)/utility(s) shall enter into a negotiated written agreement setting out the schedule for the initial marking of the project (see attached example form) and the process they shall use for subsequent meetings and or communications. Steps shall be taken to work together, including the Linear Large Project Planning Meeting, so that a negotiated marking plan may be agreed upon allowing the facility owner(s)/operator(s) to locate the utility facilities at a time reasonably in advance of the actual start of excavation or blasting for each phase of the work. Emergency phone numbers and contact people shall be identified for notification of problems, delays or changes in the initial and subsequent marking plans.

(f) The terms and conditions spelled out in the initial negotiated marking agreement must include all details of the initial marking of the project and subsequent communication and/or meetings, must be in writing and executed by the excavator(s) and the facility owner/operator(s) or locate representative(s) (i.e. contract LOCATOR/UTILITY for the facility owner/operator) before excavation commences. If the LOCATOR/UTILITY is going to execute the negotiated marking agreement on behalf of the facility owner/operator, the facility owner/operator shall have on file with the UPC, written documentation of such grant of authority from the facility owner/operator to the LOCATOR/UTILITY. Compliance with the negotiated marking agreement and the Commission’s Large Project Rule shall constitute compliance with O.C.G.A. § 25-9-7(j). The excavator and facility owner/operator shall each retain a copy of the executed marking agreement. If a facility owner/operator is unable to execute the marking agreement at the large project meeting, then a fully executed copy of the agreement shall be returned to the excavator within 48 hours beginning the next business day excluding hours during days other than business days after the large project meeting or as agreed to by the parties present.

(g) In addition to the initial mandatory Linear Large Project Planning Meeting, the excavator shall conduct periodic utility coordination meetings as the project progresses to enhance communication, review the planned schedule and markings and negotiate future locating requirements. Written documentation of these meetings and all changes to the marking agreement shall be maintained by all parties. By agreement of the Facility Owner/operators and the excavator(s), these coordinated periodic

utility meetings may be held in person or communicated and negotiated electronically with all parties, on a recurring basis, to achieve this same coordination. If for any reason a facility owner/operator cannot attend such subsequent meeting(s), the facility owner/operator's representative shall attempt to contact the excavator and make other arrangements prior to the meeting.

(h) If the facility owner/operator fails to respond to the excavator's terms of the negotiated marking agreement or the facility owner/operator notifies the excavator that the facilities cannot be marked within the time frame defined within the negotiated marking agreement and a mutually agreeable date for marking cannot be reached, with the exception of hazardous gas or liquid pipelines, the excavator may attempt to locate the facilities in accordance with O.C.G.A. § 25-9-7(f), then proceed with excavation or blasting, provided reasonable care is exercised. At the option of the excavator and as an alternative to the excavator's attempting to locate the facilities at issue, such facilities shall revert back to the locate time-frame mandated by O.C.G.A. § 25-9-7.

(i) Failure of any party to abide by the terms of the negotiated marking agreement and/or the requirements defined in the Rules applicable to linear large projects shall be a violation of the Commission's Large Project Rule defined herein. Any such violation shall be grounds for and may result in sanctions including but not limited to civil and/or criminal penalties being imposed upon the violating party in accordance with Georgia Law.

(j) Any person holding an active linear large project request or registered as a subcontractor on an active linear large project request, shall be required to provide their respective subcontractor(s) with the large project request number and direct all duly authorized subcontractor(s) working within the scope of the large project request to register on the existing UPC large project request prior to the subcontractor commencing excavation. They shall also be required to identify all such duly authorized subcontractors excavating under the large project request and to direct those subcontractors to comply with the large project request and marking agreement.

(k) Any authorized subcontractor excavating under an initial or subsequent large project request and marking agreement(s) shall be required to notify UPC that they are a party to the large project locate request and shall be required to reference the master contractor's Large Project Request number. The subcontractor shall excavate only in accordance with the provisions of the marking agreement and any subsequent addendum(s). Failure of the subcontractor to notify the UPC and to reference the master contractor's Large Project Request number shall constitute a violation of this Rule.

(l) Documentation of marking agreements, addendums and supplemental communications shall be maintained by UPC in accordance with its policies and procedures.

(4) Site Specific Large Project Procedures

(a) Upon the UPC's concluding that a particular locate request or requests qualify as a "Site Specific Large Project" as defined by Commission Rule 515-9-4-.02(j) (ii), the UPC shall notify all affected facility owners or operators through the issuance of a "Site Specific Large Project" request.

(b) No mandatory meetings are required for a "Site Specific Large Project" excavation request. Rather, the Facility Owner/Operators receiving such a request shall respond under Commission Rules as listed below.

(c) A facility owner/operator shall be required within 48 hours beginning at 7:00 a.m. the next business day and excluding non-business days following receipt by the UPC, of the locate request filed in accordance with Code Section 25-9-6, excluding hours during days other than business days, to determine whether or not utility facilities are present on the tract or parcel of land upon which the excavating or blasting is to occur. If utility facilities are determined to be present, the facility owner or operator shall commence designating, through stakes, flags, permanent markers, or other marks on the surface of the tract or parcel of land, the location of utility facilities within the aforementioned 48 hour period.

(d) For projects where the area of excavation is equal to or greater than 100 acres or requested by the excavator, a facility owner/operator shall have up to 96 hours to complete the locate request beginning at 7:00 a.m. the next business day and excluding non-business days following receipt by the UPC of the locate request filed in accordance with Code Section 25-9-6, excluding hours during days other than business days, to complete the designation of all utility facilities within the scope of the excavation request.

(e) A facility owner/operator shall be required to respond to PRIS within the same 48 hour period defined in section (c) above reporting the current status of locating efforts associated with the request.

(f) A facility owner operator shall be required to respond to PRIS a second time prior to the legal date of the excavation request reporting the final status of the locate request, if not previously completed within the initial 48 hours as defined in sections (c and e) above.

(g) If, prior to the expiration of the waiting period as defined in sections (d) and (f) above, all identified facility owners or operators have responded to the locate request, and if all have indicated that their facilities are either not in conflict or have been marked, then the person planning to perform excavation or blasting shall be authorized to commence work, subject to the other requirements of this Code section, without waiting the full time period.

(h) If the facility owner/operator fails to respond or the facility owner/operator notifies the excavator that the facilities cannot be marked within the time frame defined herein and a mutually agreeable date for marking cannot be reached, with the exception of hazardous gas or liquid pipelines, the excavator may attempt to locate the facilities in accordance with O.C.G.A. § 25-9-7(f), then proceed with excavation or blasting provided reasonable care is exercised. At the option of the excavator and as an alternative to the excavator's attempting to locate the facilities at issue, such facilities shall revert back to the locate time-frame mandated by O.C.G.A. § 25-9-7.

(i) Failure of any party to abide by the requirements defined within the Rules applicable to site specific large projects shall be a violation of the Commission's Large Project Rules defined herein. Any such violation shall be grounds for and may result in sanctions including but not limited to civil and/or criminal penalties being imposed upon the violating party in accordance with Georgia Law.

(j) Any person holding an active site specific large project request or registered as a subcontractor on an active site specific large project request may elect to have their subcontractor(s) register on a site specific large project request. In the event of such an election, the electing party shall be required to provide their respective subcontractor(s) with the large project request number and direct all duly authorized subcontractor(s) working within the scope of the large project request to register on the existing UPC large project request prior to the subcontractor commencing excavation.

(k) Any authorized subcontractor excavating under an initial or subsequent large project request shall be required to notify UPC that they are a party to the large project locate request and shall be required to reference the master contractor's Large Project Request number. The subcontractor shall excavate only in accordance with the provisions of the Site Specific Locate Request. Failure of the subcontractor to notify the UPC and to reference the master contractor's Large Project Request number shall constitute a violation of this Rule.

SAMPLE

SAMPLE

Large Project – Sample Utility Facility Locating Agreement (For Linear Large Projects only)

THIS AGREEMENT, made this _____ (month/date/year), by and between _____, hereinafter called the EXCAVATOR, and _____, hereinafter called the LOCATOR/UTILITY: Due to the construction of this linear large project, it will become necessary to make certain arrangements for the locating of the utility facilities in accordance with the Georgia Public Service Commission’s Rule 515-9-4.

This Agreement is for the sole purpose of each party working together to minimize or eliminate any damages to utility facilities as well as allow the EXCAVATOR to pursue the work more expeditiously.

In consideration of the premises and the mutual covenants of the parties hereinafter set forth, it is agreed:

1. The LOCATOR/UTILITY shall provide the EXCAVATOR with correct contact information, including but not limited to, business address, business phone numbers, business facsimile numbers and any available pager or cellular numbers for all available locate technicians/representatives and their supervisors for this project at the time of executing this Agreement.
2. Attached and made part of this agreement is the negotiated marking plan, which is prepared by the EXCAVATOR. Any modifications or changes to the negotiated marking plan shall be reviewed and agreed to by both parties.
3. It is specifically understood that the EXCAVATOR will notify the LOCATOR/UTILITY by telephone, electronic mail or other means as provided by the LOCATOR/UTILITY prior to commencing any excavation activities to ensure the specific work sites have been marked.
4. If EXCAVATOR needs to move to a project work site involving excavation that has not been marked by the LOCATOR/UTILITY or the LOCATOR/UTILITY has not confirmed the accuracy of the existing marks at such site, the EXCAVATOR shall make contact with the LOCATOR/UTILITY and allow time to respond.
5. The LOCATOR/UTILITY shall be available within 24 hours and shall respond within such time frame in order for the work site to be marked or confirm the accuracy of the existing marks.
6. If for any reason, the negotiated marking agreement is terminated, the Linear Large Project Procedures under the Georgia Public Service Commission’s Rule 515-9-4 are hereby waived and the provisions of the Official Code of Georgia, Annotated Section 259-1 et. seq. shall continue in full force and effect.

LOCATOR/UTILITY Name (print): _____

LOCATOR/UTILITY Signature: _____

EXCAVATOR Name (print): _____

EXCAVATOR Signature: _____

Date: _____

(insert date on page one of the agreement)

SAMPLE SAMPLE

Authority O.C.G.A. Secs. 25-9-3, 25-9-6, 25-9-7, 25-9-13. History. Original Rule entitled “Procedures for Large Projects” adopted. F. May 19, 2006; eff. June 8, 2006. Amended: F. Dec. 21, 2006; eff. Jan. 10, 2007. Repealed: New Rule of same title adopted. F. Feb. 10, 2009; eff. Mar. 2, 2009.