

Legislative Budget and Finance Committee
A Review of the Pennsylvania One Call System
Report Presentation by Christopher Latta, October 18, 2017

Good morning. This review of the Pennsylvania One Call System has been conducted by the Legislative Budget and Finance Committee staff pursuant to a request by the Officers of the Committee to examine the performance of PA One Call prior to the expiration of the Underground Utility Line Protection Act in December of this year. PA One Call is a private, non-profit organization located in Allegheny County.

By way of background, the General Assembly of Pennsylvania passed the Underground Utility Line Protection Act in 1974 establishing the requirement for excavators to ascertain the location of utility lines prior to digging. The purpose of the act was to protect the public health and safety by preventing excavation or demolition work from damaging underground lines used in providing electricity, communication, gas, oil delivery, sewage, water, and other services.

Our study focuses on the performance of the administration of PA One Call by concentrating on its compliance with the Underground Utility Line Protection Law, the Common Ground Alliance Best Practices, and selected governance and management policies and procedures. During the study we met with PA One Call personnel including the President and Chief Executive Officer, Vice President, Director of Member Services and Accounting, General Counsel, Manager of Member

Services and Accounting, and others. We also met with representatives of the Pennsylvania Independent Oil and Gas Association, otherwise known as PIOGA, including the President and Executive Director, Vice President and General Counsel, and Treasurer. We collected and analyzed information provided by PA One Call, PIOGA, the Pennsylvania Department of Labor and Industry, and the Common Ground Alliance.

Our findings are as follows:

1. The Pennsylvania One Call System has carried out, in all material aspects, the duties and responsibilities it is charged with under the Underground Utility Line Protection Act. The law establishes and defines the roles and responsibilities of PA One Call, its Board of Directors, and the process it is to use to establish fees. Our review found no significant instances of non-compliance with the act's requirements.

2. Pennsylvania Law requires PA One Call to comply with the national Common Ground Alliance best practices for operating a one call system. These practices include such activities as promoting public awareness, reducing over-notifications, and establishing quality standards. Our review of documentation provided by PA One Call shows that the System does comply, in all material aspects, with these practices.

3. States vary in how they structure their one call systems. Federal law requires the establishment of one call systems within the states, however state laws determine how those systems are structured. Not surprisingly, state laws vary substantially from state to state. In comparing PA One Call to systems in 17 other states, we found that, unlike Pennsylvania, nine of them have opted to contract out some or all of their operations to a private, for-profit company. Six of the 17 have established Damage Prevention Committees, an element of Senate Bill 242 now under consideration in the House of Representatives. Pennsylvania is the only state whose law includes a sunset provision.

4. States vary in the agencies they use to enforce their one call statutes. Pennsylvania is the only state among the 17 we reviewed to use either its Department of Labor and Industry or its equivalent agency to enforce its one call law. According to the Federal Pipeline and Hazardous Materials Safety Administration, 29 of 50 states provide enforcement authority through their version of a public utility commission. Senate Bill 242 would transfer enforcement of Pennsylvania's One Call law from the Department of Labor and Industry to the Public Utility Commission, an issue that has been the subject of legislative hearings. While we note the Federal Pipeline and Hazardous Materials Safety Administration, the federal agency that regulates oil and gas pipelines, favors enforcement programs that involve state Public Utility Commissions, we also found the Department of Labor and

Industry has taken significant steps over the past several years to improve its performance relative to its One Call enforcement responsibilities.

5. Of the states we reviewed, Pennsylvania is one of only five that excludes Class 1 gathering lines from its regulatory requirements. Class 1 gathering lines are underground petroleum or natural gas lines in areas with ten or fewer buildings intended for human occupancy per linear mile. This issue was addressed at a legislative hearing after a 2015 incident in Armstrong County when a bull dozer operator was killed after striking a natural gas line that was never marked.

Under current law, Pennsylvania's statute, like several other states, excludes Class 1 gathering lines by reference to federal law and regulations. Congress has asked federal regulators to review the issue of exempting Class 1 gathering lines at the federal level, but new regulations have not yet been finalized.

6. Pennsylvania's fee structure, while convoluted, appears to be reasonable. The Pennsylvania Underground Utility Line Protection Law requires the operational costs of the system to be shared "in an equitable manner" by facility owner members. The law goes on to prescribe how the fees are to be set, based on costs pertinent to the operation of the One Call system. In implementing the fee structure, PA One Call has developed a variety of rate schedules for categories of users and members. Based on our review of the calculations PA One Call used to establish its current rates, we found them to be reasonable given the act's requirements.

7. PA One Call's top executives have among the highest compensation levels in the country. In 2015, the President of PA One Call received a total compensation package of \$423,031, and the Vice President, who is the spouse of the President, received a total compensation package of \$273,618. Only Texas provided a higher level of total compensation to its One Call CEO and no other state paid more than one employee a base compensation of over \$200,000. That said, the 36-member One Call Board, which includes representation from state and local government, sets the salaries and benefits of the One Call professional staff based on the annual recommendations of the Board's Compensation and Benefits Committee. Further, the compensation paid to its executives is subject to public disclosure on the federal 990 tax form that certain non-profits are required to submit annually.

PA One Call also employs the daughter of the President and Vice President as the Manager for Member Services and Accounting. Given these relationships, we reviewed the Commonwealth's policy regarding nepotism. Under Management Directive 505.7, an employee or official, under the Governor's jurisdiction, is not permitted to exercise direct and immediate supervisory authority over a family member. This policy, if adopted by the PA One Call Board of Directors, would require one of the three family members to leave their current position. PA One Call, however, is not subject to the Commonwealth's personnel policies, and IRS regulations do not prohibit nepotism at non-profit organizations. That said, as a matter of good policy, most human resource professionals recommend companies avoid nepotism because of the problems it can create.

In conclusion, we gratefully acknowledge the cooperation and assistance that Pennsylvania One Call System, Inc. provided during this study. I would especially like to thank Ms. Sherry Harim of PA One Call for her excellent cooperation during this study.