

**Senate Bill 152
Testimony by**

**Public Utilities Commission of Ohio
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**Before the
Senate Energy and Public Utilities Committee**

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Chairman Widener and members of the Senate Energy and Public Utilities Committee, my name is John Williams and I am the Director of the Service Monitoring and Enforcement Department at the Public Utilities Commission of Ohio (PUCO). Thank for you allowing me the opportunity to present testimony on Senate Bill 152.

As you know, SB 152 establishes rules and regulations for the registration of underground utility lines in Ohio. Under this legislation, businesses that operate underground utility lines in Ohio would be required to register those lines with a protection service.

The legislation establishes an Underground Protection Commission and Underground Protection Advisory Committee within the Department of Commerce. These committees will be funded through the establishment of a state underground protection fund. The Advisory Committee is composed of nine members including, utilities, excavators, contractors, municipal governments, the Department of Transportation and the Public Utilities Commission. The role of the Advisory Committee is to adopt underground protection rules and subsequently investigate protection service complaints, conduct review hearings, and provide enforcement recommendations to the Underground Protection Commission.

The Underground Protection Commission composed of three members has the authority to impose corrective action and appropriate penalties against habitual or willful non-compliers, as well as resolve complaints regarding discriminatory or unfair rates or fees charged by a protection service.

In general the PUCO sees the creation of an Underground Protection Commission as a compliment to the PUCO's jurisdiction over gas pipelines and pipeline operators.¹ The PUCO has been delegated the authority to enforce the Natural Gas Pipeline Safety Act of 1968.² Under this authority, the PUCO is responsible for making sure that the installation, operation and maintenance of all natural gas pipelines is in compliance with the federal rules and regulations.³

The federal Gas Pipeline Safety Regulations require pipeline operators to have a written program to prevent damage to pipelines from excavation which includes a duty to mark their lines and to participate in a one-call utility protection system. The PUCO has the authority to take action against operators who fail to comply with these regulations and this jurisdiction would need to be considered when the Advisory Committee adopts the underground protection rules.

The PUCO's Gas Pipeline Safety program is partially funded through a federal grant from the U.S. Department of Transportation (U.S. DOT). The amount of funding is determined through a formula that accounts for each state's adherence to prescribed standards. In the past, some Federal funding for Ohio has been withheld because current Ohio law does not meet federal damage prevention standards. As written, SB 152 could correct these deficiencies.

In addition under the Federal Pipeline Inspection, Protection, Safety and Enforcement (PIPES) Act of 2006, U.S. DOT is required to develop rules to allow enforcement proceedings against an

¹ Operator means a person who engages in the transportation of gas, 49 CFR 192.3

² 82 Stat. 720, 49 USC 1671 as amended.

³ As described in ORC 4905.90-4905.96

excavator for violation of one-call damage prevention laws in the event that a State damage prevention program is determined to be “inadequate”. Current Ohio law would result in a determination of “inadequate” by the U.S. DOT since the law has no enforcement provisions for violation of damage prevention laws. The enactment of Senate Bill 152 would provide these enforcement provisions and comply with the standards of the PIPES Act of 2006 as well as make state law more consistent with the requirements of the Federal Gas Pipeline Safety Code.

The enactment of Senate Bill 152 would not have any detrimental impact on PUCO’s administration of the Pipeline Safety Regulations with the possible exception noted above. Chairman Widener and members of the Committee, thank you for taking the time to hear my testimony, I will be happy to answer any questions you might have.