

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. URS-2024-00068

Ex Parte: In the matter concerning a rulemaking proceeding to revise the Commission's Rules for Enforcement of the Virginia Underground Utility Damage Prevention Act, 20 VAC 5-309-10 *et seq.*

ORDER FOR NOTICE AND COMMENT

Virginia Code ("Code") § 56-265.30 directs the State Corporation Commission ("Commission") to enforce the provisions of Chapter 10.3 of Title 56, the Virginia Underground Utility Damage Prevention Act ("Act") and provides for the Commission's promulgation of rules or regulations necessary to implement the Commission's authority. The Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act ("Damage Prevention Rules") are set forth in Chapter 309 of Title 20 of the Virginia Administrative Code.¹

The Commission's Division of Utility Railroad and Safety ("Division") has proposed revisions to the Damage Prevention Rules ("Proposed Rules") to facilitate use of electronic white lining that may not involve aerial imagery and provided the following information in support. Electronic white lining is a method by which excavators may indicate their intended excavation area visually through electronic data entry. The purpose of this Rulemaking is to modify 20 VAC 5-309-190 ("Rule 190") to supplement the text-based description currently employed by Virginia Utility Protection Services, Inc. ("Va811").² Electronic white lining will allow

¹ 20 VAC 5-309-10 *et seq.*

² Va811 is the entity certificated to operate as the single one-call notification center provider for the Commonwealth pursuant to Va. Code § 56-265.16:1.

excavators to provide detailed and specific visual renderings of excavation areas to Va811, and ultimately to utility operators or their locators. In this way, the Rulemaking is intended to advance safety by allowing excavators to provide a more precise excavation area which could result in more accurate and efficient utility line locates. Electronic white lining is currently contemplated in the Commission's Damage Prevention Rules;³ however, electronic white lining has not before been used in conjunction with the submission of locate requests to Va811.

The Division has advised the Commission that the Damage Prevention Advisory Committee supports the implementation of electronic white lining by Va811.

The Division also explains that the Proposed Rules clarify that in the event that electronic white lining images conflict with the text-based description provided for a proposed excavation area, the conflict will be resolved in favor of the electronic white lined image.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that a proceeding should be established to adopt revisions to the Rules to allow for the use of electronic while lining that may not involve aerial imagery. Attachment A to this Order for Notice and Comment ("Order") contains the Division's Proposed Rules. We direct the Staff of the Commission ("Staff") to provide notice of the Proposed Rules to interested persons and that they be provided an opportunity to file written comments on, proposed modifications or supplements to, or request a hearing on the Proposed Rules. We further find that a copy of the Proposed Rules should be sent to the Registrar of Regulations for publication in the *Virginia Register of Regulations*.

To promote administrative efficiency and timely service of filings upon participants, the Commission will, among other things, direct the electronic filing of comments and pleadings

³ See 20 VAC 5-309-190.

unless they contain confidential information, and require electronic service on participants in this proceeding.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed as Case No. URS-2024-00068.

(2) All comments, pleadings or other documents filed in this matter should be submitted electronically to the extent authorized by Rule 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice").⁴ Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

(3) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Rules of Practice, the Commission directs that service on participants and Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, participants and Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no participant or Staff is impeded from participating in this matter.

(4) Staff shall forward an electronic copy of this Order, including a copy of the Proposed Rules, to the Registrar of Regulations for publication in the *Virginia Register of Regulations*.

⁴ 5 VAC 5-20-10 *et seq.*

(5) An electronic copy of the Proposed Rules may be obtained by submitting a request to William Henry Harrison IV, Esq., in the Commission's Office of General Counsel at the following email address: William.Harrison@scc.virginia.gov. An electronic copy of the Proposed Rules can be found on the Commission's website: scc.virginia.gov/pages/Rulemaking. Interested persons may also download unofficial copies of the Order and the Proposed Rules from the Commission's website: scc.virginia.gov/pages/Case-Information.

(6) Staff shall provide copies of this Order by electronic transmission, or when electronic transmission is not possible, by mail, to: individuals, organizations, and companies who have been identified by Staff as potentially being interested in this proceeding.

(7) On or before August 19, 2024, any interested person may file comments or request a hearing on the Proposed Rules by following the instructions found on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically, may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case No. URS-2024-00068. Any request for hearing shall state with specificity why the issues raised in the request for hearing cannot be adequately addressed in written comments. If a sufficient request for hearing is not received, the Commission may consider the matter and enter an order based upon the papers filed herein.

(8) On or before September 4, 2024, Staff shall file with the Clerk of the Commission a report on or a response to any comments, proposals contained therein, or requests for hearing submitted to the Commission on the Proposed Rules.

(9) All documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified by this

order, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Rules of Practice.

(10) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.

State Corporation Commission

Delineating Specific Location of a Proposed Excavation or Demolition

20VAC5-309-190. Delineating specific location of a proposed excavation or demolition.

A. Any person, as defined in § 56-265.15 of the Code of Virginia, providing notice of a proposed excavation or demolition shall clearly describe the limits of the proposed excavation or demolition with sufficient detail to enable the operators to ascertain the location of the proposed excavation. The specific location of the proposed excavation or demolition may include, but is not limited to:

1. GPS coordinates taken at a single point where work is planned or GPS coordinates taken to delineate a line, multi-segment line, or polygon. When providing a single point, line, or multi-segment line, the person providing notice shall include an area measured in feet from the coordinates that describe the work area. If a polygon is used, the proposed work area shall be inside the polygon. GPS nomenclatures used for providing coordinates to the notification center shall be as approved by the advisory committee.
2. White lining to delineate the area where excavation will take place. For single point excavation, the area shall be marked using dots, dashes, or white flags to show the operators the area of excavation. If utility markings are desired outside a white lined area, the excavator shall provide clear instructions, to include the distance in feet outside the white lined area, to the notification center. For continuous excavations, such as trenching and boring, the excavator shall mark the center line of excavation by the use of dots or dashes. The excavation width, in feet, shall be indicated on either side of the center line in legible figures or noted in the marking instructions given to the notification center.

3. White lining performed by electronic means ~~using aerial imagery~~. White lining performed by electronic means shall follow the same requirements as listed in subdivision 2 of this subsection. When submitting information to the notification center pursuant to §56-265.17, any conflict between text-based descriptions of the specific location of a proposed excavation and any images, depicting the specific location of a proposed excavation, submitted in compliance with the notification center's electronic white lining standards shall be resolved in favor of the electronically white lined image.

4. A reference to the two nearest intersecting streets, if available, or driving directions.

B. In the event that a proposed excavation or demolition is planned at a single address at which there is no more than one structure, the area of proposed excavation or demolition may, if geographically feasible, be described by dividing the parcel or property into four quadrants from the perspective of facing the front of the property using the center of the structure as the center point of the four quadrants. If no structure exists on the property, the center of the parcel or property will be used as the center point of the four quadrants. These four quadrants shall be referred to as Front Left, Front Right, Rear Left, and Rear Right. If the proposed area consists only of Front Left and Front Right quadrants, the term "Front" shall be sufficient. If the proposed area of excavation consists only of Rear Left and Rear Right quadrants, the term "Rear" shall be sufficient. If the proposed area of excavation consists only of Front Left and Rear Left quadrants, the term "Left Side" shall be sufficient. If the proposed area of excavation consists only of Front Right and Rear Right quadrants, the term "Right Side" shall be sufficient. If the proposed area of excavation includes three out of the four quadrants, the entire property may be used for the proposed excavation or demolition.

C. If the notice of proposed excavation or demolition does not contain specific location information, the notification center shall suspend the issuance of the notice until specific location information is obtained, except in the case of excavations or demolitions performed during an

emergency, as defined in § 56-265.15 of the Code of Virginia. The notification center shall issue the emergency notices with as much information as is available to it.

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Attachment B

Electric Companies	
William K. Castel	wkcastle@aep.com;
Robert M. Conroy	robert.conroy@lge-ku.com;
Allyson K. Sturgeon	allyson.sturgeon@lge-ku.com;
Paul E. Pfeffer	paul.e.pfeffer@dominionenergy.com;
Electric Coops.	
Belvin 'Butch' Williamson, Jr.	bwilliamson@anec.com;
Bill Buchanan	bbuchanan@barcelectric.com;
Gary E. Wood	gwood@mycvec.com;
Steven A. Harmon	sharmon@comelec.coop;
Jeff M. Ahearn	jeff.ahearn@cbec.coop;
David E. Schleicher	dschleicher@novec.com;
Brad Coppock	bcoppock@pve.coop;
Sarat Yellepeddi	SYellepeddi@pgec.coop;
John D. Hewa	jhewa@myrec.coop;
Gregory S. Rogers	grogers@svec.coop;
John C. Lee	jlee@meckelec.org;
Jason Loehr	jason.loehr@sec.coop;
Bradley H. Hicks	bhicks@nnec.coop;

Natural Gas	
John D. Jessee	JJessee@appnatgas.com;
J. Kevin Dobbs	Kevin.Dobbs@atmosenergy.com;
Jennifer Montague	jmontague@nisource.com;
Paul W. Nester	Paul_nester@rgcresources.com;
James McClain, II	james@swvagas.com;
Robert Duvall	rduvall@southernco.com;
Donald 'Blue' Jenkins	blue.jenkins@washgas.com;

Water & Sewer	
John Aulbach, II	jjaulbach@aquaamerica.com;
Don Liscomb	luralam@shentel.net;
Curtis B. Brown	ssorrells@doubleslaw.com;
Tim Campbell	office@cascade-mountain.com
Carl Kellogg	Kelloggdrilling@gmail.com;
Russell T. Aaronson	raaronson@graycorei.com;
Ron Hyatt	Hyatt.ron2@gmail.com;
Robert Burton	president.Burton@amwater.com;
Deborah Brown	Debbie2brown@gmail.com;
Stephen C. Rossi	srossi@scrossi.com;
Craig Jebson	craigj@countrywatersystems.com; hopel@countrywatersystems.com;
C. David Sherrill	Harboueastvlg@comcast.net;
Keith Arnett	hkoffice@hkoai.com;

Robert P. Weeks, Jr.	bobby@firstcallpaintball.com ;
Bob Karnes	montvalewater@gmail.com ;
David Lockledge	peacockhillsc@gmail.com ;
Mark Douglas	mark@restonrelac.com ;
Robert P. Finch	sedleywater@gmail.com ;
John Burbage, Jr.	jreed@bwdc.com ;
Ellis Rouse	tbwadmin@comcast.net ;
Abdul Rahman	arahman@keswick.com ;
Bryce Mendenhall	bryce.mendenhall@corix.com ;
James K. McKelvey	jhodges@b2xonline.com ;
Matthew E. Raynor	tarmatt@aol.com ;
Michael Griffin	mm9440@gmail.com ;
Kurt Alexander	Mark.Spadoni@omnihotels.com ;
Larry E. Lamb	larryelamb@aol.com ;
Keith Merritt	water3@cbtea.net ;
Barry L. Suits	Barry.Suits@amwater.com ;
Joseph J. Contrucci	contruccilaw@aol.com ; chris.pearson@hbcpa.com ; moriahswr@yahoo.com ;
Aimee Barnard, President	woodhavenwater@gmail.com ;

Local Exchange Carriers	
Julie May	jmay@accessoneinc.com ;
Jeremy Smuckler	Legalnotices@acninc.com ;
Cynthia Firstman	cat@airespring.com ;
John McCluskey	jmclluskey@airustel.com ;
James Carr	business@allpointsbroadband.com ;
Bruce Mottern**	bruce.mottern@tdstelecom.com ;
Mark N. Zaruba**	mzaruba@allpointsbroadband.com ;
Richard T. "Chip" Howell**	rh2514@att.com ;
Lauren M Ramirez	Lauren.Ramirez@americantower.com ;
Ed Fineran	efineran@atlantech.net ;
Bud Caspari	Bud.caspari@bdexcavating.com ;
Harold Barr	Hb@barrtell.com ;
Sadia Mendez	Smendez@bcmone.com ;
Kathleen Goreiy	Kgorey@bcntele.com ;
Danny Raynes	dravnes@benchmarkutilitvservices.com ;
James Patrick Guy II**	jguy@MECKELEC.ORG ;
Steve Bogdan **	sbogdan@broadviewnet.com ;
Thomas E. Jaskiewicz	tomiaski@btrusa.com ;
David Bailey	dbailey@bullseyetelecom.com ;
Fred Lawless	fblawless@bgtco.net ;
Becky West**	Becky.West@windstream.com ;
Anthony O'Brien	tony@helixsystems.com ;

Ted Heckmann	Ted.heckmann@cinbell.com ;
Dennis Moffit	dennis.moffit@suddenlink.com ;
Darlene Terry	Darlene.terry@lumen.com ;
Jason Grey	greyjc@danvilleva.gov ;
Zachary Wright	zwright@franklinva.com ;
Tony H. Dawood	tdawood@ci.manassas.va.us ;
Michael A. Scaffidi	mcaffidi@ci.martinsville.va.us ;
Tim Logwood	Tim.Logwood@radfordva.gov ;
A. K. Briele	abriele@salemva.gov ;
Leslie Brown	legal@breezeline.com ;
John Conwell**	John_Conwell@comcast.com ;
Tanya Gardner	tgardner@conterra.com ;
Christopher Van De Verg	chris@coretel.net ;
Louis A. Lombardi	llombardijr@cpvcom.net ;
Jeffrey G. Korn	jkorn@crexendo.com ;
Fernanda Biehl	fernanda.biehl@crowncastle.com ;
Judd Carothers	judd@fiberandconduit.com ;
Sean Lee	slee@dswltech.net ;
Tamara Volmer	tamara.volmer@dish.com ;
Daryl Dunbar	Daryl@Downunderc.com ;
Lin S. Altamura & Tom Dougherty	Lin.Altamura@dukenet.com ; dougherty@fhhlaw.com ;
Gina Lawrence	Gina.lawrence@essentia-inc.com ;
Michael Ruziska and Tom Turpin	Michael.ruziska@entelegent.com ; Tom.Turpin@entelegent.com ;
Brian Kirk	bkirk@extenetsystems.com ;
Jeffrey W. Cornejo	regulatory@fiberoads.com ;
Joanne Petersen	Joanne.Petersen@FiberLight.com ;
Steven Hamula	hamulas@lumosnet.com ;
Shannon Dieringer	sdieringer@firstcomm.com ;
Joe Topel	joe.topel@orange.com ;
Angela McCall	angie.mccall@ftr.com ;
Kevin Sullivan	Kevin.Sullivan@gtt.net ; tax@gtt.net ;
Glenn C. Ratliff	GCR@GCRCompany.com ;
Victor Bunaev	victor.bunaev@logmein.com ;
Ronald K. Rueve	rkrueve@gigamonster.net ;
Paula Foley	Paula.Foley@granitenet.com ;
Chad Kimbble	kimble@htcnet.org ;
Mary Jane Rasher	mrasher@intrado.com ;
Jim Garrett	jgarrett@kinextel.com ;
Amy Crawford	amy@ligado.com ; compliance@ligado.com ;
Aurora Ares	aarea@impacttelecom.com ;
Robert Russell	brussell@localaccessholdings.com ;
Karen Graham	Karen.graham@ledcor.com ;
Bryan McNally	Bmcnally@maverickcorporation.com ;

Jan Chesney	jan.chesney@verizon.com ;
Gary H. Tarpley and Courtney Tarpley	Gary.Tarpley@MetroNetInc.com ; Courtney.Tarpley@MetroNetInc.com ;
Randy Kiesel**	Randy.Kiesel@metronetinc.com ;
Joseph G. Blake	jgblake@teamfishel.com ;
Andoni Economou	aeconomou@mettel.net ;
R. Craig Smith**	rcraigsmith@mgwnet.com ;
James Campbell	jcamp@mis.net ;
Chris Glass	chris@mobilitie.com ;
Gwen Godsey	GwenG@mounet.com ;
Kayrn Bartel	mail@newcenturytelecom.com ;
Timothy M. Harris	timharris@newhopetel.com ;
Jessica Renneker	Jrenneker@aninetworks.com ;
James K. Dize	kdize@onevoiceinc.com ;
Mary Buley	mary.buley@onvoy.com ;
Tony Eaton	aceaton@pemtel.net ;
Tim Tribble	timtribble@wilkestmc.net ;
John W. Anderson	john@ql.email ;
Scott A. Sterling	ssterling@americanrepartners.com ;
Richard P. Biby	rbiby@two-hops.com ;
Tim Tribble	Timtribble@myriverstreet.net ;
Eric Cramer	ericcramer@myriverstreet.net ;
William J. Franklin	billfranklin@sctc.org ;
Derek Rieger	Derek.rieger@emp.shentel.com ;
Chris Kyle	chris.kyle@emp.shentel.com ;
Vanessa Leon	vanessa.leon@spectrotel.com ;
Joseph O. Kahl	joseph.kahl@rcn.net ;
Lee Grant**	lgrant@SummitIG.com ;
Alex Green	alex@telcoexperts.com ;
David Aldworth	daldworth@teliax.com ;
Richelle Johnson	rjohnson@fibernetworkservices.com ;
Vance Witt	compliance@yourtimeclocksolution.com ;
Lynn Notarianni	Lynn.Notarianni@charter.com ;
Elvin Ray Epting	eepting@bedfordva.gov ;
Jonathan McMahon	jmcmahon@frontroyalva.com ;
Erik Robinson	regulatory@tncii.com ;
Danielle Heard	dheard@tritonnet.com ;
Matt Wiltanger	legaldept@upnfiber.com ;
Christopher Lodge	chris@ufd.com ;
Jeffery R. Strenkowski	jeffery.strenkowski@uniti.com ;
Ted M. Hankins**	ted.hankins@brightspeed.com ;
Dayanara Fierro	Dayanara.fierro@verizon.com ;
Iris Adams**	iris.adams@verizon.com ;
Scott Beer	sbeer@veronetworks.com ;
Dusan Janjic	djanjic@rockbridge.net ;

Paul Cusack	pcusack@voxbeam.com ;
Rob Oyler	rob.oyler@WANRack.com ;
Bruce Davis	waterfordtelephonecompany@gmail.com ;
Chris Barton	cbarton@wcs.com ;
Andrew Nickerson	anickerson@widevoice.com ;
Robbie Payne	rpayne@woodlawn-llc.com ;
Rex Knowles	Rex.knowles@xo.com ;
Mark Pavol	mark.pavol@ymaxcorp.com ;
Laura Lau	llau@globalcloudxchange.com ;
James Simonelli	regulatorytax@zayo.com ;
Brandon Camden	Brandon.camden@thesgng.com ;

Long Distance Carriers	
Sherif Elkhoully	Legalnotices@acninc.com ;
Ken Williams	kwilliams@alliedtelecom.net ;
Robert Stankey	robertstankey@dwt.com ;
Michelle Silvia	msilvia@aocwins.com ;
W. Christopher Matton	cmatton@bandwidth.com ;
Elena Spinks	elena.spinks@intrepidfiber.com ; info@intrepidfiber.com ;
Susan Cramer-Rapinz	ag@gertsburglaw.com ;
Betty Sanders	betty.sanders@charter.com ;
Kelsey Cooke	legal@clearrate.com ;
Joseph E. Fergus	jfergus@comtechnologies.com ;
Robert J. Howely	Robert.howley@cox.com ;
Cesar Caballero**	ccaballero@onecommunications.com ;
Scott Lane	Scott@earthgrid.io ;
Mary Whiting**	mwhiting@corp.earthlink.com ;
Matt Simpson**	msimpson@extenetsystems.com ;
H. Anthony Lehv	alehv@extenetsystems.com ;
Clifford Paul	cpaul@fiber-connect.com ;
Lisa A. Wabiszczewicz	lisaw@freedom-tele.com ;
Ronald A. Sheehan	Ronald.Sheehan@fusionconnect.com ;
Katherine Mudge	katherine.mudge@globalcapacity.com ;
Tony Ludlow	Tony.ludlow@citrix.com ;
Dean Cline	dcline@gigacom.net ;
Matthew Van Hoesen	Matthew.VanHoesen@usa-groups.com ;
Geoff Cookman	gcookman@granitenet.com ;

Brian Kirk**	compliance@util.extenetsystems.com;
John Peterson	John.Peterson@IDT.net;
Terri Firestein	tfireccg@myactv.net;
Jennifer Anthony**	jennifer.anthony@segra.com;
Cliona Robb	crobb@t-mlaw.com;
Tim Pressley**	Tim.pressley@lumofiber.com;
Anne Sokolin-Maimon	amaimon@mediacomcc.com;
Edward S. Quill, Jr.	equill@stratlg.com;
Robert Jones	rjones@jucinc.net;
Cyndia Moreno	cyndia@mobilitie.com;
Karen Wolf	Karen.Wolf@motorolasolutions.com;
Richard Monto	rmonto@neutraltandem.com;
Glen E. Nelson	gnelson@nhcgrp.com;
Bruce A. White	TCSRegulatoryCompliance@telecomsys.com;
Don Ferguson	don@nga911.com;
Erika Benson	bensoned@diodeventures.com;
Gregg Strumberger	gstrumberger@veronetworks.com;
Ashley Jackson	Ashley.Jackson@mcdean.com;
Patrick Phipps	pphipps@peerlessnetwork.com;
Jeffrey Strenkowski	jeffrey.strenkowski@uniti.com;
Tanya King	tax@powernetco.com;
Gary Storm	gstorm@quantumshift.com;
Eric M. Page	epage@eckertseamans.com;
Leah Gibbons	lgibbons@nrg.com;
David Whicker	davidwhicker@myriverstreet.net;
Sally Blair	sb1621@att.com;
Matthew Hill	mhill@sctc.org;
Steve Schulte	Steve.schulte@brambleton.com;
Nicholas Bournakel	nbournakel@tilsontech.com;
Ryan Elswick**	ryanelswick@gmail.com;
Chad Wachter**	cwachter@itchold.com;
Chad Wachter **	chad.wachter@point-broadband.com;
Nicole Winters **	Nicole.Winters@windstream.com;
Al Lubeck**	al.lubeck@lumen.com;
Terrance Tyler**	Terrance.Tyler@charter.com;
Kurt C. Maass	leestephens@spottsfain.com;
Matt Wiltanger	Matt.Wiltanger@upnfiber.com;

Greg Benak	greg.benak@ex2technology.com ;
Blair Rosenthal	Blair.rosenthal@vodafone.com ;
Kathy Lewis	klewis@wcs.com ;
Charles Forst	charles.forst@zayo.com ;

Locators	
Juan Vogel	juan.vogel@utiliquest.com ;
Shane Ayers	shane.ayers@stakecenter.com ;
Steve Roark	sroark@benchmarkllc.us ;
Debbie King	Debbie_King@cableps.com ;

Excavator Groups	
Stephanie Rogers	srogers@hruhca.com ;
Deborah Harvey	dharvey@hcca.net ;
Maiko Hewitt	maiko.hewitt@ramca.info ;
George Hamilton	george@nuca.com ;
Brandon Robinson	brandon@agcva.org ;
Rob Camlin	rob@abcva.org ;
Patrick Dean	pat@abcva.org ;
Ray Lamura	rlamura@vcta.org ;

Municipalities	
Erin K. Trimyer	etrimyer@cityofchesapeake.net ;
Russel Stevens	stevensr@portsmouthva.gov ;
Milt Cummings	mcummings@nnva.gov ;
Jeff Bustamante	bustaja@danvilleva.gov ;
Nate Huber	nhuber@staffordcountyva.gov ;
Benjamin L. Loveday	bloveday@spotsylvania.va.us ;
Jeff Stephens	jstephens@manassasva.gov ;
Jim Hoy	jhoy@culpeperva.gov ;
Mercury Payton	manager@viennava.gov ;
George B. Hays	utilities@chesterfield.gov ;

Paul Retel	pretel@suffolkva.us ;
David H. Irvin	irvindh@ci.staunton.va.us ;
Lauren Hildebrand	hildebrand@charlotteville.gov ;
Timmy Morris	Morrism@charlottesville.gov ;
Doug Beaver	Douglas.Beaver@norfolk.gov ;
Jay Taliaferro	Citymanager@salemva.gov ;
Toni Bishop	tbishop@williamsburgva.gov ;