April 6, 2021

Via Email

The Honorable Alan Wilson
Attorney General of South Carolina
c/o Ms. Harley Kirkland
P.O. Box 11549
Columbia, South Carolina 29211

Dear Attorney General Wilson:

On October 1, 2020, a representative of the U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted an evaluation of the South Carolina Attorney General’s enforcement of the South Carolina State excavation damage prevention law. PHMSA conducted this evaluation pursuant to 49 United States Code (USC) § 60114 and 49 Code of Federal Regulations (CFR) Part 198, Subpart D—State Damage Prevention Enforcement Programs. Based on this evaluation, PHMSA has determined that the enforcement of the South Carolina excavation damage prevention law is “adequate.”

PHMSA evaluates a state’s excavation damage prevention enforcement program based on the criteria detailed in 49 CFR 198.55 and scores the state’s compliance with those criteria. Although the state’s enforcement program was deemed “adequate,” this is not a finding by PHMSA that the State program has no room to further improve the program’s effectiveness. Accordingly, PHMSA would like to bring to your attention an area where the South Carolina Attorney General and the Office of Regulatory Staff of South Carolina could collaborate to further improve damage prevention and pipeline safety in the State. In CY 2019, South Carolina’s gas distribution operators reported a total of 2,713 excavation damages to their pipeline facilities in the annual reports submitted to PHMSA. Based on the information gained during our evaluation, 145 (5.3%) of these damages were submitted as complaints to the South Carolina Attorney General, and 130 of those cases led to an enforcement case. Additionally, of the 2,713 damages reported, 584 (22%) were attributed to pipeline operators for not having complied with their responsibilities in accordance with South Carolina’s one-call law. None of the enforcement actions taken were against pipeline operators. PHMSA encourages the South Carolina Attorney General to work closely with the Office of Regulatory Staff of South Carolina and evaluate how it may improve the State’s one-call enforcement program and provide an update to PHMSA 60 days from receipt of this letter.

As you are aware, excavation damage continues to be a leading cause of pipeline failures, some of which have resulted in fatalities, serious injuries, and environmental damage. Nationwide
statistics show that effective enforcement of state damage prevention laws reduces excavation damage and pipeline incidents, resulting in enhanced public safety.

Should you or your staff have any questions regarding this letter, please contact Zach Barrett, Director of PHMSA’s States Programs Division at (405) 954-0206 or by email at zach.barrett@dot.gov.

Sincerely,

Massoud Tahamtani
Deputy Associate Administrator, Policy and Programs
Office of Pipeline Safety

cc: Misty Wise, Executive Director
    South Carolina 811
    Johnny Eustace, Pipeline Safety Program Manager
    Office of Regulatory Staff of South Carolina