STATE OF NEW YORK

4459

2023-2024 Regular Sessions

IN ASSEMBLY

February 16, 2023

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law and the general business law, in relation to excavation of underground facilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraphs b and d of subdivision 1 of section 119-b of the public service law, as added by chapter 445 of the laws of 1995, are amended to read as follows:

b. "Excavation" means [~~an~~] any operation [~~for the purpose of movement or removal of~~] in which earth, rock or other materials in or on the ground [~~by use of mechanized equipment or by blasting, and includes~~] are moved, removed or otherwise displaced by means of any tools, equipment or explosive including, but [~~is~~] not limited to, auguring, backfilling, boring, drilling, grading, plowing in, pulling in, trenching [~~and~~], tunneling, digging, saw cutting, jack hammering, milling to a depth of greater than six inches, scraping, tree and root removal, cable or pipe plowing, and fence post or pile driving; provided, however, that the [~~movement of earth by tools manipulated only by human or animal power and the~~] tilling of soil for agricultural purposes or routine residential property or right-of-way maintenance or landscaping activities performed with non-powered equipment shall not be deemed excavation.

d. "Underground facilities" means pipelines, conduits, ducts, cables, wires, manholes, vaults or other such facilities or their attachments, which [~~have been installed~~] are underground and are utilized by an operator to provide services or materials. Such term shall not include oil and gas production and gathering pipeline systems used primarily to collect oil or gas production from wells.

§ 2. Subdivisions 2 and 4 of section 760 of the general business law, as amended by chapter 685 of the laws of 1994, are amended to read as follows:

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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2. "Excavation" means [~~an~~] any operation [~~for the purpose of movement or removal of~~] in which earth, rock or other materials in or on the ground [~~by use of mechanized equipment or by blasting, and includes~~] are moved, removed or otherwise displaced by means of any tools, equipment or explosive including, but [~~is~~] not limited to, auguring, backfilling, drilling, grading, plowing in, pulling in, trenching [~~and~~], tunneling, digging, saw cutting, jack hammering, milling to a depth of greater than six inches, scraping, tree and root removal, cable or pipe plowing, and fence post or pile driving; provided, however, that the [~~movement of earth by tools manipulated only by human or animal power and the~~] tilling of soil for agricultural purposes or routine residential property or right-of-way maintenance or landscaping activities performed with non-powered equipment shall not be deemed excavation.

4. "Underground facilities" means pipelines, conduits, ducts, cables, wires, manholes, vaults or other such facilities or their attachments, which [~~have been installed~~] are underground and are utilized by an operator to provide services or materials. Such term shall not include oil and gas production and gathering pipeline systems used primarily to collect oil or gas production from wells.

§ 3. This act shall take effect immediately.