**Section 530.40 Legal Obligations**

a) Only a permit issued by the Department under this Part will satisfy the "written consent" requirement of Section 9-113 of the Illinois Highway Code (the Code).

b) A permit from the Department grants a license only to undertake certain activities in accordance with this Part on a State right-of-way, and does not create a property right or grant authority to the permittee to impinge on the rights of others who may have an interest in the right-of-way. Such others might include an owner of an underlying fee simple interest if the right-of-way is owned as an easement, an owner of an easement, or another permittee.

c) It shall be the responsibility of the permittee to ascertain the presence and location of existing above-ground or underground facilities on the highway right-of-way to be occupied by their proposed facilities. The Department will make its permit records available to a permittee for the purpose of identifying possible facilities. When notified of an excavation or when requested by the Department, a permittee shall locate, physically mark, and indicate the depth of its underground facilities within 48 hours, excluding weekends and holidays.

d) The permittee shall avoid conflicts with any existing underground or above-ground facilities on or near the highway right-of-way.

e) The permittee shall comply with all other applicable laws relating to the placement of utility lines.

f) The issuance of a utility permit by the Department does not excuse the permittee from complying with other requirements of the Department (e.g., oversize and overweight vehicles) or the requirements of other State agencies including, but not limited to, the following:

 Illinois Commerce Commission

 Illinois Department of Agriculture

 Illinois Department of Conservation

 Illinois Department of Mines and Minerals

 Illinois Environmental Protection Agency

 Illinois Historic Preservation Agency

g) Rights of abutting and underlying property owners are protected by common law and Sections 9-113 and 9-127 of the Code. The Department will not be a party in any negotiations between the utility and abutting property owners.

h) In no case shall the permit give or be construed to give an entity any easement, leasehold or other property interest of any kind in, upon, under, above or along the State highway right-of-way.

i) Each person responsible for a utility, in place on the effective date of this Part, on a State highway right-of-way shall notify the Department in writing, if that facility does not comply with this Part. The Department shall treat such a notice as a request for a variance under Section 530.130. Until informed that a variance will not be granted, a person responsible for a pre-existing utility will not be in violation of this Part. The failure to provide such notice constitutes a violation of this Part and of the utility accommodation permit (if any) and would justify the imposition of the sanctions set forth in Section 530.810.