

Maryland Underground Facilities Damage Prevention Authority

AUTHORITY MEETING Minutes
Wednesday, September 2, 2015

Agenda Items 1 & 2

Call to Order, Attendance Roll Call & Welcome

The meeting was called to order by Authority Chairman, Kevin Woolbright at 9:00 a.m. in the Miss Utility One Call Center, Conference Room, 7223 Parkway Drive, Hanover, MD 21076.

A roll call of the Board of Directors was conducted by Ms. Stroud. A quorum (6) was present for the morning session.

In attendance were Authority members Kevin Woolbright, Walter Gainer, Matt Ruddo, Veronica Davila-Steele, Marcia Collins and Vince Healy for the meeting and hearing. Board Members Art Bell, Tom Hastings and Jeff Garner were absent. Susan Stroud and Jim Barron were also present.

Guests included: Dora Parks, Miss Utility; Scott Brown and Don Jones, Washington Gas Light; Juan Vogel & Erik Phillips, Utiliquest; Kim Lincoln-Stewart & Milena Yordanova, D.C. PSC; Michael Stablein, American Gas Association; Leslie Fannon, VA811; Joe Shelton, B. F. Joy; Adele Abrams, attorney for Civil Construction, Keyvan Saleni, Civil Construction, LLC; John Shuffler, Civil Construction, LLC; Bertolino Amaro, Civil Construction, LLC.

Ms. Stroud gave an over-view to the Board regarding the member Manuals, which will be used for orientation purposed as well as for storage of meeting handouts.

Agenda Item 3: (Handout)

Approval of Minutes:

A motion to accept the August 5, 2015 minutes was made by Walter Gainer and seconded by Matt Ruddo; and approved by acclamation. They will be posted on the Authority website.

Agenda Item 4: (Handout)

Authority Financial Report:

The Executive Director provided financial statements for August. He reported that the Operating Account has a balance of \$102,801.78 and the Education and Outreach Account has a balance of \$24,674.62. There are no outstanding bills at this time. The Executive Director also noted that legal fees for the Authority to-date are \$52,325.99. He also stated that the other half of the PHMSA grant has been released to the Delphi e-payment system. Also, the Executive Dir. reported that there were no fines collected in August. A motion to accept the August financial report was made Walter Gainer and seconded by Marcia Collins and approved by acclamation.

Agenda Item 5:

Appeals:

- Pinpoint/WSSC - (NPV's 316a, 316b, 408, 411a and 411b) were appealed to the Maryland Court of Special Appeals on December 4, 2015. No date has been set for oral arguments.
- Reliable Contracting v. MD Underground Authority – (NPV# 283) Reliable Contracting filed a petition for a “Petition For Writ of Certiorari” on May 29, 2015; which the Authority filed a “Opposition to Petition for Writ of Certiorari” on June 15, 2015. The Court of Appeals of MD s accepted the “Petition” on August 21, 2015. No date has been set for oral arguments at this time.
- Pinpoint/WSSC – (NPV's 1216, 1834, 1841 & 1853) were appealed to the Circuit Court of Anne Arundel County on March 25, 2015. No date has been set for Oral Arguments. No date has been set for examination of Authority documents by the Pinpoint/WSSC Counsel. The PIA will be executed at the Authority office and all expenses associated with the request will be paid by the requesting party.

Agenda Item 6:

Hearing:

NPV# 3165 – Washington Gas vs. Civil Construction, LLC.

At 9:16 the Chair called the hearing open and requested that the recorder be turned on. The violations to Title XII for NPV# 3165 were: §12-124(a) – Notice to one-call system; §12-127(c) – Duties of excavator; §12-127-(e) Clear evidence. The Chair swore in representatives from Civil Construction, LLC who included: Keyvan Salehi, Operations Manager, John Shuffler, Safety Director and Bernadito Amaro, Foreman; also Authority Executive Director Jim Barron. Chairman Woolbright then proceeded to explain the hearing process to the defendants.

Mr. Barron presented evidence pertaining to the case which included 14 plaintiff's exhibits, which were entered into the official record by the Secretary. After reviewing the record, it was determined that Civil Construction did not have an active ticket at the time of the incident. There were old Miss Utility markings in the area where the incident occurred, however. There was also photographic evidence that damage (broken casing) did occur to a 16” transmission gas main owned by Washington Gas and also used mechanical equipment within the 18” tolerance zone of the facility in question.

It was also stated that Civil Construction had cancelled a WGL inspector the day before the incident due to alleged inclement weather. A WGL representative, who was in the area at the time, observed Civil Construction working in the vicinity of an exposed transmission line without WGL supervision.

Ms. Adele Abrams, attorney for the defendant questioned Mr. Barron and employees of Civil Construction. In her rebuttal remarks Ms. Abrams stated the they agree there were existing markings; and also agreed that the ticket did not cover the area they were operating in. And, that there was no active ticket for that area at the time. However, she stated that Civil Construction did not damage the transmission main. She stated that when they uncovered the main the casing was already broken. When the damage was discovered they did not however, contact WGL or 911. Ms. Abrams stated that Civil construction complied with the Miss Utility law to the best of their ability, and that the old markings had no effect on the situation. She also stated that the company knew there was a gas line and exercised caution when working around it by hand digging and only used a piece of mechanical equipment to remove the asphalt away from the excavation.

She went on to say that the company had a “pristine” record and has undergone training and has established a safety program in order to insure against any further mix-ups with tickets. She was adamant that the company did not need any further training since the company felt their training was more than adequate. Ms. Abrams presented 11 documents to be entered into the official record; which were numbered Plaintiffs Exhibits #1-11, respectively. There was no further testimony from the plaintiffs.

The floor was then turned over to Scott Brown with WGL. Mr. Brown stated that transmission lines are marked on a regular basis as a safety precaution, but that does not preclude the need to call in a ticket. The casing on the line which was compromised has an electrical charge in it which prevents rusting and deterioration. When the covering is broken it severely affects the integrity of the pipe. Mr. Brown went on to say he applauded Civil Construction for their safety training efforts and offered any assistance WGL could provide regarding working around gas lines.

Mr. Brown asked when the pipe was exposed and when the wrapping came off. He stated that it was highly unlikely that the covering came off when the crews were hand digging around the line. In fact the damage appeared fresh and there was no evidence of corrosion, stated Vice-Chair Marcia Collins. Mr. Salehi, project manager for Civil Construction stated that it was a 14 ft. trench composed mainly of rock and that they used digger bars, a mini-ho and air knife. Mr. Barron noted in the conclusion of the hearing that a Mr. Lyons was listed on the WGL contact sheet as the person patrolling “Strip #13” on the day the damage was discovered.

Ms. Abrams was given the opportunity to give a brief summation. She stated that WGL was negligent in not coming to the job site that day, and that no service interruption or bodily harm occurred as a result of the incident. She also stated that the lack of ticket was a communication issue and that there was an honest mistake about the exact location of the involved area.

The hearing was concluded at 12:02 p.m.

Agenda Item 7:

Requests for Hearings:

There are currently two (2) requests for hearings for the October 7th Authority meeting. Both NPV's are 1st offenses for no-ticket violations.

Agenda Item 8:

Post Hearing Updates

NPV#	Case	Status
NPV# 1599	Verizon v. A.C. Crane & Sign Service	No training as yet. Letter sent 7/17/15.
NPV# 1723	Dominion Trans v. C&M Contracting	Waiting for Bi-lingual training
NPV# 1724	Dominion Trans. v. Beuchert Exc.	No training as yet. Letter sent 7/16/15
NPV# 1874	Cecil Co. v. Crouse Constr.	No training as yet. Letter sent 7/16/15
NPV# 2446	Wash. Gas v. Fernandas Constr.	Training set for 9/11/15. 23 employees.
NPV# 2450	Wash. Gas v. RL Purkey P&H	No training as yet. Reminder sent.
NPV# 2459	Wash. Gas v. Della & Son	Training scheduled for 9/11/15
NPV# 2504	Cossentino Contr. v. Verizon/UtilQ.	Decision letter sent 8/19/15
NPV# 2514	Cossentino Contr. v. Verizon/UtilQ.	Decision letter sent 8/19/15
NPV# 2738	Wash. Gas v. Garland L. Brian, Sr.	Training scheduled for 9/11/15
NPV# 2739	Wash. Gas v. Garland L. Brian, Sr.	Training scheduled for 9/11/15
NPV# 2740	Wash. Gas v. Garland L. Brian, Sr.,	Training scheduled for 9/11/15
NPV# 2896	T.R. Electric, LLC	Training scheduled for 9/11/15

Agenda Item 9:

Accepted Recommendations and Waived Hearings

NPV#	Case	Status
NPV# 2130	Wash. Gas v. Mulford Construction	Fine paid. No training as yet.
NPV# 2895	Wash. Gas v. J Fletcher Creamer	Fine paid/Training scheduled.
NPV# 2898	Wash. Gas v. Diversified Site Works	5x\$400 payment plan/no training as yet.

Agenda Item 10:

Post Review/Pre-hearing Updates

NPV#	Case	Status
NPV# 2737	Wash. Gas v. Perdona Constructi9on	All certified letters refused. Move to collections? Motion to move to collections approved.
NPV# 2891	Wash. Gas v. DHC Corporation	No response. Move to collections? Motion to move to collections approved.
NPV# 2921	Town of Thurmont v. H&H Well Drilling	No response. Move to Collections? Motion to move to collections approved.

Agenda Item 11:

In Collections

NPV#	Case	Status
NPV# 1005	Wash. Gas v.R&D Construction	In-process
NPV# 1199	Wash. Gas v. General Landscaping	In-process
NPV# 1446	Wash. Gas v. Cooley Enterprises	In-process
NPV# 1497	Sherron Thompson v. Keybridge Const.	In-process
NPV# 1955	Wash. Gas v. LG Superior Framing	In-process
NPV# 2292	Wash. Gas v.MP Power Const.	In-process
NPV# 2460	Wash. Gas v. McFarland Woods	In-process
NPV# 2520	Wash. Gas v. HDDNI, Inc.	In-process
NPV# 2524	Wash. Gas v. Christian Erosion Control	In-process

Agenda Item 12:

NPV's For Review By Authority

NPV#	Case	Status
NPV# 3788	Wash. Gas v. Cadle Masonary 1st Offense – No ticket/Clear Evidence	6-0 approved \$2k fine + training
NPV# 3789	Wash. Gas v. Eastern Hospitality Adv. 1 st Offense – No ticket/Clear Evidence Note: Equipment rental issue.	6-0 approved \$2k fine + training
NPV# 3791	Wash. Gas v. Amerza Const. 1 st Offense – No ticket/Clear Evidence	6-0 approved \$2k + \$2k + training.
NPV# 3792	Wash. Gas v. Garcia Cable, Inc No test pit/Clear Evidence Due care (mechanical equip w/in 18")	6-0 Approved \$2k + \$2k + \$2k + training
NPV# 3793	Wash. Gas v. LCS Site Services 1 st Offense – No ticket/Clear Evidence	6-0 Approved \$2k + \$2k + training

Agenda Item 13:

New NPV's for Research and Review (September meeting)

Note: Please refer to the September 2, 2015 Agenda for a listing of the new NPV's

Agenda Item 14:

Non-Member Updates

- MML & Municipalities
 - Baltimore County – Ms. Stroud, Authority Assistant has made a second call to Mr. Adams' assistant requesting a meeting. There has been no response to date. Should there be a follow-up letter sent? No action was taken.
 - Montgomery County – They are only marking communications. No other utilities are being marked. The Executive Director was asked to send a letter to County Executive Ike Leggett regarding the issue.

- Garrett County – Has a large sewer replacement project which entails running services in the right-of-way to homes. They do not intend to put tracer wire on the lines as required by law. The project has not started. The Authority has asked Bruce Bereano to contact the county regarding this issue.
- Municipalities – Ms. Stroud has taken over the registration project for the remaining non-member municipalities. She reported that to-date of the 160 towns 61 are still not Miss Utility members (38%). Of the 61: 20 need to send letters to the Authority confirming their exempt status; 5 have executed contracts and are awaiting mapping; 11 have been sent contract information, but have not followed through on membership; and, 25 have completely ignored attempts to have them signed up or exempted. Ms. Stroud will be following up on all of the 61 municipalities in order to get some movement going on the project.

Agenda Item 15:

Old Business

- Fining Matrix – In process
- Revenue Authority – The last meeting was held on August 19th. Several proposals are being considered.
- Authority Appointments – Five (5) members will be either termed out or are eligible for another term. The Executive Director has sent out letters to the nominating entities requesting appointee names. September is the end of these individual's terms.
- Revised NPV review process – In process, waiting for matrix.
- PHMSA Grant – waiting for the next installment.

Agenda Item 16:

New Business

- MD Plumbing Board Questions – The plumbing board has sent a number of questions regarding SB 401 (tracer wire) which are more like interpretations of the law. The Authority Board discussed the matter and determined that their role is not to interpret the law, but to enforce it. The Authority will inform the Plumbing Board of their decision via Bruce Bereano who represents Washington Gas.
- Speaking Date – The Executive Director announced that he has had a number of speaking requests regarding the Authority.
- VA-811 – Leslie Fannon with the Virginia Authority gave a presentation on their on-line training courses, which was very informative.

Agenda Item 17:

Future Meeting Dates

- The next meeting will be held on Wednesday, October 7, 2015. Two (2) hearings have been scheduled to-date.

- The November 4, 2015 meeting has been changed to November 11, 2015. A December meeting was also scheduled for the 2nd.

Agenda Item 18:

Adjournment/Executive Session

- The September 2, 2015 Authority meeting was adjourned at 12:02 p.m.
- A motion to go into Executive Session was approved via recorded roll call and began at 1:16 p.m.

Respectfully submitted by:
Susan A. M. Stroud
Assistant to the Executive Director