

# Maryland Underground Facilities Damage Prevention Authority

AUTHORITY MEETING Minutes  
Wednesday, September 7, 2016

Agenda Items 1, 2, 3

## **Call to Order, Attendance Roll Call & Welcome**

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

The Chairman welcomed all present and made a few introductory remarks. Guests Included: Scott Brown and Amanda Matune, Washington Gas; Juan Vogel & Erik Philips, Utiliquest and, Dora Parks & Brain Simmons, OCC, Inc.;

A roll call of the Board of Directors was conducted by the Board Secretary Veronica Davila-Steele. A quorum was present for the session. In attendance were Authority members: Tom Hastings, Veronica Davila-Steele, Artie Bell, Vince Healy, Jim DiPietro, Jeff Garner, Matt Ruddo; George Taylor and Charlie McCadden were absent. Susan Stroud and Jim Barron were also present.

Agenda Item 4: (Handout)

## **Approval of Minutes:**

A motion was made to accept the August 3, 2016 minutes of the open meeting and seconded. The minutes were accepted by acclamation. The minutes were approved by acclamation and will be posted on the Authority website.

Agenda Item 5: (Handout)

## **Authority Financial Report:**

The Executive Director provided financial statements as of July 31, 2016. He reported that the Operating Account has a balance of \$85,594.10 and the Education and Outreach Account has a balance of \$28,393.58. The Executive Director also noted that legal fees for the Authority to-date are \$106,999.65. A motion to accept the financial report was made and seconded by and approved by acclamation. Note: The Executive Director will be preparing the Final Report for the 2015 PHMSA State Program grant which is due the end of October 2016. The 2016 grant will Distribute the first half of the \$97,000.00 sometime in November.

Agenda Item 6:

**Appeals:**

- Pinpoint/WSSC – NPV#'s 1216,1834,1841,1853 –These remaining cases have been remanded back to the Authority for final action which was taken in August. The Authority moved to dismiss these NPV's, therefore they are now officially closed.
- Reliable Contracting -The notice of remand has not made its way back to the District Court, once the Authority received the a remand notice a vote will be taken as to the disposition of the case.

Agenda Item 7:

**Scheduled Hearings**

- There are 7 hearings pending as of this date. The Attorney General has responded to the request from the Authority for representation at the appellate level. The AG's office has stated that in their opinion, the Authority does not qualify under the definition of "state agency". A second letter has been sent to the AG's office asking for clarification. In the meantime, the Authority will develop a next steps plan, which could include legislative action in the 2017 session of the MD General Assembly.

Agenda Item 8:

**Current Requests for Hearings :**

- NPV# 4331 – BGE v. ARI Concrete Construction  
§12-124 (a) Notice to One –call system – 1<sup>st</sup> offense
- NPV# 4406 – Washington Gas v. Basement Masters  
§12-124 (a) Notice to One –call system – 1<sup>st</sup> offense
- NPV# 4541 – BGE v. Gaines and Company  
§12-124 (a) Notice to One –call system – 1<sup>st</sup> offense
- NPV# 4487- BGE v. Joseph L. Winkler Co., Inc.  
§12-124 (a) Notice to One –call system – 1<sup>st</sup> offense
- NPV# 4734a – Washington Gas v. Manekin Precision Concrete Construction, Co.  
§12-124 (a) Notice to One –call system – 1<sup>st</sup> offense
- NPV# 6839 – Verizon v. Berkel Company  
§12-127 (c)(1),(2),(3) & d (1) – Duties of Excavator
- NPV# 7085 – BGE v. Love Point Ventures  
§12-124 (a) Notice to One –call system – 1<sup>st</sup> offense

Agenda Item 9:

**Post Hearing Updates:**

Please refer to the September 7, 2016 agenda for the disposition of the post hearing NPV's.

- Note: NPV# 2450 – Washington Gas v. RL Purkey Plumbing & Heating - §12-124 (a) Notice to One –call system – 1<sup>st</sup> offense: The Authority received a check from Mr. Purkey for the full fine amount this morning. This case is now officially closed.
- Note: NPV# 3793 – Washington Gas v. LCS Site Services - §12-124 (a) Notice to One – call system – 1<sup>st</sup> offense: Seventy-six (76) employees of LCS Site Services were trained at the Washington Gas facility in Woodbridge, VA on September 2, 2016. This case is now closed.
- Note: NPV# 3923 – Washington Gas v. Magnum Magno Excavation & Construction - §12-127 (b)&(e) – Duties of Excavator –This company is on a payment pan and has made two (2) of ten (10) payments with \$1,800.00 remaining.

Agenda Item 10:

**Accepted Recommendation and Waived Hearing:**

Please refer to the September 7, 2016 agenda for the disposition of these NPV's.

Note: A number of these cases have stayed open due to lack of training participation or failure to pay the assessed fine. New letters with stronger language have gone out to a majority of these violators, either reinstating the original assessed fine or threat of a collection action; including a statement that explains to the violator that failure to comply with these recommendations will be taken into consideration should there are a subsequent appearance before the authority. The new letters have been met with a good deal of success. The Authority has also added language that states “You should also be aware that if you have previously paid to repair the ----- facility you damaged, it DOES NOT negate the ruling of the Authority. You are being FINED for not following the Title XII – Miss Utility law. “. This language has also worked to clarify some of the pending NPV's

Agenda Item 11:

**Post Review/Pre Hearing Updates**

Please refer to the August 3, 2016 agenda for these updates.

Note: The Authority has entered into an agreement with Superior Process Service, LLC, to try and resolve some of these long standing cases. The onus is on the Authority to provide due process to the violators, therefore, it is important to get the recommendation documents into their possession. This approach has been very successful with the exception of NPV# 4547 – BGE v. Shanni Construction, where it appears the owner of the company has left the area with no forwarding address.

Agenda Item 11 – cont'd

Note: NPV# 6785 – Allan Myers v. BGE - §12-126 (a) (1) – Failure to mark facility – BGE has indicated that they need 60-90 days to decide whether they will ask for a hearing in this matter. The Authority agreed to BGE's request for the delay.

Agenda Item 12: (Handout)

**Incomplete Reviews**

Please refer to the September 7, 2016 handout for these updates.

Agenda Item 13: (Handout)

**In Collections**

Please refer to the September 7, 2016 handout for these updates.

Agenda Item 14:

**NPV's for Authority Review:**

**Note:** All reviews will be conducted in closed Executive Session

NPV#	Case
NPV# 7160	BGE v. H&R Underground §12-124(a) Notice to One-Call System – 1 <sup>st</sup> offense
NPV# 7199	Washington Gas v. WSSC §12-124(b) (1) Working outside the stated work area.
NPV# 7236	BGE v. Accurate Plumbing §12-124(a) Notice to One-Call System – 1 <sup>st</sup> offense
NPV# 7238	BGE v. Michael J. Haggis §12-124(a) Notice to One-Call System – 1 <sup>st</sup> offense
NPV# 7271	BGE Gas v. Butches Backhoe Service §12-124(a) Notice to One-Call System – 1 <sup>st</sup> offense
NPV# 7772	BGE v. K>M> Murphy Enterprises §12-124(a) Notice to One-Call System – 1 <sup>st</sup> offense
NPV# 7283	BGE v. Consolidated Construction Services §12-124(a) Notice to One-Call System – 1 <sup>st</sup> offense

NPV# 7285	BGE v. R.C. Clark Construction §12-124(a) Notice to One-Call System – 1 <sup>st</sup> offense
NPV# 7428	BGE v. Conrad Biddinger Contracting, Inc. §12-124(a) Notice to One-Call System – 1 <sup>st</sup> offense
NPV# 7285	BGE v. Glenelg Construction §12-124(a) Notice to One-Call System – 1 <sup>st</sup> offense

Agenda Item 15:

**New NPV's for Research and Review (27 reviews):** (Handout)

Please refer to the September 7, 2016 handout for a listing of the new NPV's

Agenda Item 16:

**Old Business**

- There was general discussion about IT plan for the Authority office. The Executive Director will put together an RFP delineating the technical needs which could include a dedicated server, direct internet service, cloud or off-site storage for data sharing. Web maintenance & upgrades as well as programming needs for data management.
- Ms. Stroud informed the Authority that she had removed a number of old meeting documents from the Board Manuals, which the members could dispose of or save for future reference. The documents are stored digitally and can be redistributed upon request.
- The Executive Director and Ms. Stroud visited the LGIT offices to look at potential alternate meeting spaces when the renovations begin at the call center. There are two rooms available. One would be ideal for regular Board meetings, and the other for hearing and training session. Once the construction schedule is announced, Authority staff will reserve the spaces with LGIT. There will be no cost associated with the use of the rooms.

Agenda Item 17:

**New Business**

- The Executive Director announced that this was probably member Bell's last meeting with the Authority; since the approval of the new AUC representative (Walter Gainer) was imminent. The members thanked Art Bel for his service and unique insight.

Agenda Item 18:

**Next Meeting Date:**

- October 5, 2016

Agenda Item 19:

**Adjournment and Move to Executive Session**

- The Chairman called for a motion to adjourn the meeting at 9:47 AM. The motion was approved by acclamation. A second vote was taken and recorded for the Board to go into Executive Session for Judicial review at 10:09 a.m.

Respectfully submitted by:  
Susan A. M. Stroud  
Recording Secretary