



## Maryland Underground Facilities Damage Prevention Authority

AUTHORITY MEETING Minutes  
Wednesday, February 1, 2017

Agenda Items 1, 2, 3

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

The meeting was called to order by Authority Chairman, Tom Hastings at 9:05 a.m. in the Miss Utility Call Center, Conference Room, 7223 Parkway Drive, Suite 200, Hanover, MD 21076.

The Chairman welcomed all present and made a few introductory remarks. The Chairman introduced Guests Included: Scott Brown, Jack Ellison, Don Jones & Tamara Jones, Washington Gas; Erik Phillips, Utiliquest; Lenny Corbin & John Wiley, Gray & Son, Inc.; Mark Hamrick, Verizon; Jack Sullivan, BGE; Dora Parks, Miss Utility; Brian Simmons, OCC, Inc. Dominic Pope, Gaines & Co.; and Pavel Abaev, ACH.

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, Vince Healy, Jeff Garner, George Taylor and Charlie McCadden, Walter Gainer, Matt Ruddo and James DiPietro. Susan Stroud and Jim Barron were also present.

Agenda Item 4: (Handout)

### **Approval of Minutes:**

A motion was made by member Ruddo and seconded by member Garner to approve the January 4, 2016 open session meeting minutes. The motion carried by acclamation.

Agenda Item 5: (Handout)

### **Authority Financial Report:**

The Executive Director provided financial statements as of January 31, 2017. He reported that the Operating Account has a balance of \$119,636.24 and the Education and Outreach Account has a balance of \$34,858.32. There were no legal fees for January 2017. The January revenue from the Miss Utility surcharge was \$18,841.00. A motion to accept the financial report was made by member Gainer and seconded by member Healy. The motion was approved by acclamation.

Agenda Item 6:

## Appeals

None

Agenda Item 7:

## Scheduled Hearings

- NPV# 4487 – BGE v. Joseph Winkler, Co., Inc. - §12-124 (a) – Notice to One Call System, First Offense – **Hearing Cancelled**  
Note: The Executive Director received a telephone call from Mr. Winkler who stated that he had decided to pay the fine and undergo training.
- NPV# 4541 – BGE v. Gaines and Company.  
Offense - §12-124 (a) Notice to One-call system (1<sup>st</sup> Offense)

The Chairman asked the Recording Secretary to take a roll-call attendance prior to the hearing. There were eight (9) authority members present. Member McCadden recused himself. Mr. Dominic Pope was present for Gaines & Co. and Mr. Jack Sullivan was present, representing Baltimore Gas & Electric. The recorder was turned on at 9:13 a.m. and the Chairman swore in Mr. Pope, Mr. Sullivan and the Executive Director, Jim Barron. The alleged violation was to §12-124(a) – Notice to One-Call System – 1<sup>st</sup> Offense. Mr. Pope testified that this was a clerical error. That there were a number of active tickets in the vicinity of the site in question; and that the wrong ticket was cancelled. Mr. Pope acknowledged that Gaines & Co., was in the wrong, but stated that they pull over 3000 tickets each year. He also stated that there were no marks where the damage occurred. The Executive Director entered the Authority's evidence Exhibit #'s 1 through 13 into the record and distributed evidence packets to the Authority Board as well as Mr. Sullivan and Mr. Pope. The recommendation of the Authority using the Standardized Fining Matrix (SFM) was to assess a \$850.00 fine, reduced to \$425.00 providing Gaines & Co. participated in damage prevention training. Mr. Pope stated that a mistake had been made, however Gaines & Co. has an excellent record and trains its employees in-house. He also stated that Gaines and Co. have had numerous issues with BGE not marking accurately. The hearing was closed by the Chairman at 9:45 a.m. and the recorder was turned off. The Authority will discuss this case and make a determination in closed Executive Session. The Chairman stated that the defendant will be notified by certified mail subsequent to the hearing.

- NPV# 4406 – Washington Gas v. Basement Masters  
Offense - §12-124 (a) Notice to One –call system – 1<sup>st</sup> offense

The Chairman asked the Recording Secretary to take a roll-call attendance prior to the hearing. There were eight (9) authority members present. Mr. Pavel Abaev was present for Basement Masters and Mr. Scott Brown was present, representing Washington Gas. The recorder was turned on at 9:50 a.m. and the Chairman swore in Mr. Abaev, Mr. Brown and the Executive Director, Jim Barron. The alleged violation was to §12-124(a) – Notice to One-Call System – 1<sup>st</sup> Offense. Mr. Abaev testified that he admitted his company's guilt, but did not know he needed to file for a ticket. He stated that his company specializes in finishing basements and that they rarely work outside of the dwellings. He stated that the customer in this case asked if they could put an egress window in the foundation. The Basement Masters workers hand dug to see if it was feasible and hit a gas line with their shovels. The Executive Director entered the Authority's evidence Exhibit #'s 1 through 15 into the record and distributed evidence packets to the Authority Board as well as Mr. Brown and Mr. Abaev. The recommendation of the Authority using the Standardized Fining Matrix (SFM) was to assess a \$1675.00 fine, reduced to \$837.50 providing Basement Masters participated in damage prevention training. Mr. Abaev stated in his closing remarks that they were not aware of the Miss Utility law, but have since filed for a ticket for another job, and will continue to do so. He stated the reason for his requesting a hearing was to see if he could have the recommended fine reduced. Mr. Brown stated that he would be happy to work with Basement Masters to arrange training. The hearing was closed by the Chairman at 10:05 a.m. and the recorder was turned off. The Authority will discuss this case and make a determination in closed Executive Session. The defendant will be notified by certified mail subsequent to the hearing.

Agenda Item 8:

**Hearings scheduled for March 1, 2017:**

- NPV# 4331 – BGE v. ARI Concrete Construction  
§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

Agenda Item 9:

**Opens NPV's**

Please see 02/01/17 handout for updates on these issues.

Agenda Item 10:

**Incomplete NPV's**

Please see 02/01/17 handout for updates on these issues.

Agenda Item 11:

**NPV's in Collections**

Please see 02/01/17 handout for updates on these issues

Agenda Item 12: (Handout)

**NPV's for Authority Review:**

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

NPV#	Case
NPV# 6785 Reconsideration Request for Training	Allan Myers v. BGE §12-124(a) Notice to One-Call System – 1 <sup>st</sup> offense §12-127(e) Clear Evidence
NPV# 8496 Re-review	Washington Gas v. Amorim Construction Corporation §12-124(a) Notice to One-Call System – 1 <sup>st</sup> offense
NPV# 8578	Washington Gas v. Potomac Concrete Co., Inc. §12-125(a) Repeat Notification – Expired ticket §12-127(c) Failure to test pit §12-127(e) Clear Evidence
NPV# 8579	Washington Gas v. J&R Landscaping §12-124(a) Notice to One-Call System – 1 <sup>st</sup> offense
NPV# 8580	Washington Gas v. Total Civil Construction §12-124(a) Notice to One-Call System – 1 <sup>st</sup> offense
NPV# 8581	Washington Gas v. Wire Wizards §12-124(a) Notice to One-Call System – 1 <sup>st</sup> offense

NPV# 8582	Washington Gas v. Custom Towing §12-124(a) Notice to One-Call System – 1 <sup>st</sup> offense
NPV# 8633	BGE v. AC Powers §12-124(a) Notice to One-Call System – 1 <sup>st</sup> offense

Agenda Item 13:

**New NPV's for Research and Review (37 reviews):** (Handout)

Please refer to the February 01, 2017 handout for a listing of the new NPV's. The Executive Director indicated that the Authority would temporarily halt accepting NPV's until the backlog is caught up.

Agenda Item 14:

**Old Business**

- The 2017 PHMSA State Damage Prevention Grant was submitted on January 19, 2017. The grant request was for \$100,000 and would continue the current plan to upgrade technologies and support the assistant investigator position.
- The Sixth report to the Governor and Maryland General Assembly was ready for distribution on January 24, 2017. Members of the Authority were given copies of the report at the meeting. Copies will be sent to Legislative Reference to be archived and will also be put on the Authority's website.
- A recorded roll-call vote was conducted for the temporary suspension of the receipt of new NPVs so that the backlog of cases can be processed. The vote to support an earlier vote by e-mail was motioned by Chairman Hastings and seconded by member McCadden. The motion carried 8-1.

Agenda Item 15:

**New Business**

- Authority members whose terms expire on September 30, 2017
  - James DiPietro – MACo member – ending 1<sup>st</sup> term and eligible for a 2<sup>nd</sup> term.
  - Charles McCadden – Subscriber member - ending 1<sup>st</sup> term and eligible for a 2<sup>nd</sup> term.
  - George Taylor – PWCA member - ending 1<sup>st</sup> term and eligible for a 2<sup>nd</sup> term.
  - Tom Hastings – DPC Locator member – end of 2<sup>nd</sup> term, terms out.
  - Veronica Davila-Steele – Public Member - end of 2<sup>nd</sup> term, terms out.

There was general discussion regarding the timing of the appointments. Members whose terms expire are able to stay on until their replacement is sworn in.

- The Executive Director reminded the Authority members that it is time to go on-line and file their 2016 Ethics reports.

Agenda Item 16:

**Next Meeting Date:**

- March 1, 2017 – There will be three (3) hearings at this meeting, as well as a closed Executive Session to discuss judicial issues.

Agenda Item 17:

**Adjournment and Move to Executive Session**

- The Chairman called for a motion to adjourn the meeting at 10:35 a.m. 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 10:55 a.m.

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