



Maryland Underground Facilities Damage Prevention Authority

AUTHORITY MEETING Minutes
Wednesday, March 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, Washington Gas; Erik Phillips and Juan Vogel, Utiliquest; Lenny Corbin, Gray & Son, Inc.; Mark Hamrick, Verizon; Dora Parks, Miss Utility; Chis Ratliff, Lambert Cable; Walter Randolph, Rustler Construction; Bryan Park and Kevin Coughlin, Berkel Construction.

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, 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 Taylor and seconded by member McCadden to approve the February 1, 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 \$121,983.08 and the Education and Outreach Account has a balance of \$38,447.39. There were no legal fees for January 2017. The January revenue from the Miss Utility surcharge was \$17,669.85. The total income from the subscriber surcharge for 2016 was \$141,867.35. There were no attorney fees to-date. A motion to accept the financial report was made by member Ruddo and seconded by member Garner. The motion was approved by acclamation.

Agenda Item 6:

Appeals

None

Agenda Item 7:

Scheduled Hearings

- NPV# 4331 – BGE v. ARI Concrete Construction - §12-124 (a) – Notice to One Call System, (1st Offense)
- NPV# 4734a – Washington Gas v. Precision Construction Company, Inc. (formerly v. Manekin Construction) **Postponed until April 5, 2017 meeting per email request.**
Offense - §12-124 (a) Notice to One-call system, (1st Offense)
- NPV# 6839 – Verizon v. Berkel & Company
Alleged Offenses - §12-127(c) (1)(2)(3); (d) (1) – Duties of Excavator

Scheduled Hearing #1: NPV# 4331 – BGE v. ARI Concrete Construction §12-124 (a) – Notice to One Call System, (1st Offense)

At 9:15 a.m., the Chairman asked if representatives from ARI Concrete Construction and BGE were present. No one from ARI was present at the time. Jack Sullivan was present for BGE. The Chairman moved to postpone the hearing until later in the morning in order to give sufficient time for representatives from ARI Concrete Construction to arrive.

Schedule Hearing #2: NPV# 6839 – Verizon v. Berkel & Company Alleged Offenses - §12-127(c) (1)(2)(3); (d) (1) – Due Care

The Chairman asked if there were representatives from Berkel & Company and Verizon present. Mark Hamrick and Colin Redford were present for Verizon; Kevin Coughlin and Bryan Park were present for Berkel & Company. The Chairman asked the witnesses to step forward to be sworn-in prior to their testimony. The Recording Secretary took the roll-call attendance prior to the hearing. There were eight (8) authority members present. At 9:20 a.m. the recorder was turned on and the Chairman swore in Mr. Hamrick, Mr. Redford, Mr. Park and Mr. Coughlin; as well as the Executive Director, Jim Barron. The alleged violations were to §12-127(c) (1)(2)(3); and (d) (1) – Due Care. The Authority originally fined Berkel & Company \$6,000.00 with no discount for training. The issue was later run through the Standardized Fining Matrix (SFM) and a fine of \$5,100.00 with a \$1,000.00 maximum reduction for training. The Executive Director entered the Authority's evidence Exhibit #'s 1 through 18 into the record and distributed evidence packets to the Authority Board as well as Mr. Hamrick and Mr. Coughlin. In his opening remarks, Mr. Coughlin stated that there were

no marks in the area where the damage occurred to the Verizon underground facility and that he had a Miss Utility ticket.

Mr. Barron stated that the contract drawing produced in-house by Berkel & Company clearly showed that the proposed pile# 13 was to be installed directly on top and through the Verizon telephone line. Due to a snow storm, there was some confusion as to when the damage occurred. Verizon was trouble shooting and discovered that there was damage at the corner of North Broadway and E. Fayette Street. The excavator working for Berkel stated that he thought he may have hit something at a level of nine (9) feet prior to suspending operations before the snow storm. Photographs provided by Utiliquest showed that following the storm there were accurate marks for the facility in question and that it appeared that Berkel & Company may have placed an auger drill directly on the marks or in close proximity; and that there was no evidence of test pitting prior to drilling operations. Mr. Coughlin disputed that there were marks at that corner of the site and that the marks were on E. Fayette Street and N. Broadway bisected the corner in the street, not on the site. Mr. Coughlin offered into evidence an evidence package which was numbered Defendant's Exhibits #1 through #7. He also stated that there was a light pole at the corner in question, which had been removed the day the damage occurred. It was not clear if there was a ticket for the light pole removal, silt fence installation or the grading and benching that had taken place and was shown in the Defendant's evidence. The hearing was concluded at 11:19 a.m. and the recorder was turned off. The defendant will be notified by certified mail subsequent to the hearing.

A brief break was taken after the hearing.

Scheduled Hearing #1: NPV# 4331 – BGE v. ARI Concrete Construction
§12-124 (a) – Notice to One Call System, (1st Offense)

At 11:30 a.m., the Chairman reconvened the meeting and again asked if anyone was present for ARI Concrete – no one was present. The Chairman announced that the hearing would take place without the defendant and asked the Recording Secretary to take a roll-call attendance prior to the hearing. There were seven (7) authority members present. Mr. McCadden recused himself from the proceeding, due to his employment with BGE. The recorder was turned on at 11:31 a.m. and the Chairman swore in Mr. Mark Haines, who was representing BGE and the Executive Director, Jim Barron. The alleged violation was to §12-124(a) – Notice to One-Call System – 1st Offense. The Executive Director entered the Authority's evidence Exhibit #'s 1 through #14 into the record and distributed evidence packets to the Authority Board as well as Mr. Haines. The recommendation of the Authority using the Standardized Fining Matrix (SFM) was to assess a \$1675.00 fine, reduced to \$837.50 providing ARI Concrete Construction participated in damage prevention training. Mr. Barron showed that there was no evidence of a valid ticket at the address where the damage occurred on April 17, 2016. Mr. Haines stated that BGE was contacted by someone (unknown) that a damage had occurred. When BGE arrived no one from ARI Concrete was present. BGE technicians found a crimped gas line. The hearing was closed by the Chairman at 11:50 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:

Open NPV's

Please see 03/01/17 handout for updates on these issues.

Agenda Item 9:

Incomplete NPV's

Please see 03/01/17 handout for updates on these issues.

Agenda Item 10:

NPV's in Collections

Please see 03/01/17 handout for updates on these issues

Agenda Item 11: (Handout)

NPV's for Authority Review:

Note: All reviews will be conducted in closed Executive Session

NPV#	Case
NPV# 283	Washington Gas v. Reliable Contracting, Inc. §12-124(a) Notice to One-Call System – 1 st offense §12-127(e) Clear Evidence
NPV# 4541 Request for reconsideration	BGE v. Gaines & Company §12-124(a) Notice to One-Call System – 1 st offense
NPV# 8496	BGE v. Langford Excavating §12-124(a) Notice to One-Call System – 1 st offense
NPV# 8634	BGE v. Metra Industries §12-124(a) Notice to One-Call System – 1 st offense
NPV# 8636	BGE v. JRL, Inc. §12-124(a) Notice to One-Call System – 1 st offense
NPV# 8717	BGE v. Leading Technology Solutions, Inc. §12-124(a) Notice to One-Call System – 1 st offense

Agenda Item 12:

New NPV's for Research and Review (33 reviews): (Handout)

Please refer to the March 01, 2017 handout for a listing of the new NPV's.

Agenda Item 13:

Old Business

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

Agenda Item 14:

New Business

- MD/DC – DPC Media Buy Request – The ED handed out a copy of the proposed 2017 811 campaign media buy. Previously the Authority has contributed \$37,000.00 to the effort. Chairman Hastings proposed that the Authority authorize \$15,000.00 for the April buy and address May and June at future meetings. Mr. Hastings motions was seconded by member Taylor. The motion was approved by acclamation. The ED will forward a check for \$15,000 to MGH who handles the media campaign for the MD/DC - DPC.

Agenda Item 15:

Next Meeting Date:

- April 5, 2017 – There will be at least two (2) hearings at this meeting, as well as a closed Executive Session to discuss judicial issues.

Agenda Item 16:

Adjournment and Move to Executive Session

- The Chairman called for a motion to adjourn the meeting at 12:00 p.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