



Maryland Underground Facilities Damage Prevention Authority  
AUTHORITY MEETING  
Minutes

Wednesday, December 4, 2019

Agenda Items 1, 2 &3:

**Call to Order/ Welcome:**

The meeting was called to order by Chair, Erik Phillips at 9:04 a.m. in the Miss Utility Call Center, Conference Room, 7223 Parkway Drive, Suite 200, Hanover, MD 21076.

Mr. Phillips welcomed all present, made a few introductory remarks and introduced the guests which included: Susan Sullivan and Dora Parks, Miss Utility; Vladimir Ledesma and Greg Mason, Washington Gas; Mark Hamrick, Verizon; Mark Harris, Prince Georges County DPW

The Chairman seated the newest appointee to the Authority representing the PWCA, Amber Brengel, who replaces the outgoing Bucky Taylor. The Executive Director thanked Mr. Taylor for his four (4) year service.

Agenda Item 4:

**Attendance Roll Call:**

Secretary Ruddo conducted a roll call of the Authority members. A quorum was present. In attendance were Authority members: Erik Phillips, Kelly Ruddo, Amber Brengel, Tamara Neal, Michael Jewel, Joyce Brooks and Derek Shreves were present. Walt Gainer was absent. The MACo seat remains unfilled. Jim Barron and Susan Stroud were also present.

Agenda Item 5: (Handout)

**Approval of Minutes:**

Chairman Phillips continued the meeting, calling for the review and approval of the November 6, 2019 Open Session minutes. A motion to accept the minutes as written was made by member Jewell and seconded by member Neal. The motion carried and the minutes were approved.

Agenda Item 6:

**Hearing(s) Scheduled for Today:**

**NPV# 26611** – Verizon vs. SMI Services, LLC, Submitted 11/9/18. Alleged Violations – 6/20/18 - §12-124 (a) – Notice to one-call system – 2<sup>nd</sup> Offense. The Authority’s Recommendation was \$4,000 fine which remained at \$4,000 through the SFM with a 20% discount of \$800.00 for completion of Damage Prevention Training netting a \$3,200.00 fine

The hearing began at 9:20 a.m. in the Miss Utility Conference Room. Chairman Phillips read instructions and asked for representatives from both parties to come forward. Mark Hamrick was present for Verizon; No one was in attendance for SMI Services, LLC. An attendance roll call was conducted and recorded by the Recording Secretary. There were seven (7) members present. The Chairman then swore in the Executive Director, Mr. Barron and Mr. Hamrick. Mr. Barron was instructed to present his evidence against SMI Services, LLC. The recording secretary entered the official evidence package into the record and distributed copies to the Authority, and Verizon, the complainant.

During the hearing, Mr. James Barron, Executive Director of the Authority presented evidence and entered it into record substantiated facts supporting the findings of the Authority Recommendation letter dated January 23, 2019 to SMI Services, LLC at 17435 Mill Branch Place, Bowie, MD 20716-3505 Attn: Mr. Dan Ricker outlining the Recommendation of the Authority, options available to SMI Services, LLC, requirements of Maryland’s Administrative Procedures Act that apply to the Authority’s Administrative Proceedings and a copy of Invoice No. 01.23.19.26611.01. The green card never came back and the last notation on the USPS Tracking Document was on January 26, 2019 at 11:09 PM stating “Awaiting Delivery Scan”. The letter never came back and final delivery was never confirmed by USPS.

With no response to the 01/23/19 Recommendation Letter a “Second and Final Notice” letter was sent by Certified Mail on May 28, 2019 with a copy of Invoice No. 01.23.19.2661.02 attached. Again, the green card never came back and the last notation on the USPS Tracking Document was on May 31, 2019 at 11:04 PM stating “Awaiting Delivery Scan”. The letter never came back and final delivery was never confirmed by USPS. With no further response from SMI Services, LLC, The Authority voted at their October 2, 2019 meeting to move NPV 26611 to a Formal Hearing. A Notice of Hearing Letter was sent on October 4, 2019 by Certified & Regular US Mail to SMI Services, LLC at 17435 Mill Branch Place, Bowie, MD 20716-3505 Attn: Mr. Dan Ricker establishing a Hearing Date with a Time and Location. Again, the green card never came back and the last notation on the USPS Tracking Document was on October 11, 2019 at 10:20 PM stating “Awaiting Delivery Scan”. The letter never came back and final delivery was never confirmed by USPS. However, Maryland Law does not require the Notice of Hearing to go

Certified Mail. Regular US Mail is acceptable. Hearing nothing back from Mr. Ricker I sent him an email on November 21, 2019 reminding him about the 12/4/19 Formal Hearing and letting him know if no one from SMI Services, LLC attended the Formal Hearing would still go forward.

The Executive director concluded his presentation by stating that there was damage to a Verizon Underground Telecommunications Feeder at 200 Dover Road Northeast, Glen Burnie, Maryland. The damage was caused when the contractor drove a galvanized limited of disturbance silt fence post into the ground cutting the side of the Verizon Underground Telecommunications Feeder. SMI Services, LLC is named as the company that damaged Verizon Underground Telecommunications Feeder at 200 Dover Road Northeast, Glen Burnie, Maryland; and that SMI Services, LLC did not have a valid active Miss Utility Ticket at the time, date and location of the damage

The complainant did not offer any additional information or evidence when asked by the Chairman. With no questions or comments from the Authority, the Chairman closed the hearing at 10:00 a.m. Mr. Brown with Washington Gas, encouraged Mr. Faridi to inform his employers about the free training his company provides at their Virginia facility. He also stated that had the defendant's company had utilized the Enhanced Positive Response information provided by their contract locator, they would have clearly seen the path of the gas main. The hearing concluded at 9:47 and the Authority took a temporary adjournment.

The open meeting reconvened at 10:00.

Agenda Item 7:

**Authority Financial Reports:**

The Executive Director provided financial statements for November 2019. He reported that the Operating Account had a balance of \$233,966.56. The Executive Director stated that there was a \$7,164.13 expenditure from the operating account for 2 new Mac computers and an additional monitor as well as upgraded software. These purchases replace the current hardware which was acquired 10 years ago when the Authority first began to organize. In addition, on the income side there was an increase of \$63,988.54; which was the first half of the 2019 PHMSA grant. Also, noted was a fund balance of \$17,819.15 in the subscriber's grant, which is the result of a drop in NPV filings. And, the October Education and Outreach Account had a balance of \$54,862.78. There was \$2,225.72 in travel expenditures which represent the registration fee for the MML conference in June of 2020 and the registration and air fare for the March 2020 CGA conference in Palm Springs. There were \$5,430.00 in fines and \$600.00 in filing fees during this period. There no legal fees for the month of October. In addition, revenues from the 5 Cent ticket surcharge continues to improve. Mr. Barron stated that for the month of September, \$17,819.15 was received, which is a \$2,193.80 increase over September of 2018. Vice-Chairman Brooks made a motion to accept the November financial reports, which was seconded by Chairman Phillips. The motion was approved by acclamation.

Agenda Item 8:

**Future Scheduled Hearings:**

1. Scheduled Hearings for January 8, 2020

**NPV# 18306** – Washington Gas vs. Arundel Excavation - Alleged Violations – 08/02/17 - §12-124 (a) – Notice to one-call system – 1<sup>st</sup> Offense Recommendation

**NPV# 27366** – Washington Gas vs. Arundel Excavation - Alleged Violations – 02/19/18 - §12-124 (a) – Notice to one-call system – 2<sup>nd</sup> Offense

Agenda Item 9, 10:

NPVs to Move to Hearing	February 5, 2019
NPV# 27051	Wash Gas vs. Rivers Construction Group §12-127 (c) (3)– Use of Mechanical EQ within 18”
NPVs for Further Review	Case
NPV# 28289	Wash Gas vs. R&O Contractors, LLC §12-124 (a) – No Miss Utility Ticket – 1 <sup>st</sup> Offense Request for payment plan
NPV's Post Hearing Review	
NPV# 26611	Verizon vs. SMI Services, LLC §12-124 (a) – No Miss Utility Ticket – 2nd Offense
New NPV's for Review	
NPV# 28906	Gaines & Company v. BGE §12-126 (a) (1) – Failure to mark within 5 feet §12-126 (b) (1) – Failure to mark within 18 inches
NPV# 28908	Gaines & Company v. BGE §12-126 (a) (1) – Failure to mark within 5 feet §12-126 (b) (1) – Failure to mark within 18 inches

NPV# 28925	Gaines & Company v. BGE §12-126 (a) (1) – Failure to mark within 5 feet §12-126 (b) (1) – Failure to mark within 18 inches
NPV# 29188	Gaines & Company v. BGE §12-126 (a) (1) – Failure to mark within 5 feet §12-126 (b) (1) – Failure to mark within 18 inches §12-126 (d)(3) – Failure to mark after 8-hour delay
NPV# 28189	Gaines & Company v. BGE §12-126 (a) (1) – Failure to mark within 5 feet §12-126 (b) (1) – Failure to mark within 18 inches §12-126 (d)(3) – Failure to mark after 8-hour delay

Agenda Item 11:

**New NPV’s for Research and Review** (please see Handout)

Please see 12/04/19 handout for updates on these cases. There are currently 9 NPV’s awaiting review.

Agenda Item 12

**Old Business:**

- Term Expirations (9/30/19) – Everyone has submitted to the Governor’s Appointment Office for Re-Appointment. The Authority received acknowledgement letters for Tamara Neal, Joyce Brooke & Amber Brengel. r, Doug Levine has resigned from the Authority. MACo has been in touch and hopes to have a replacement their winter meetings in December. Letter for Erik Phillips is still pending.
- The Title 12 re-write draft document has been given to Legislative Services for Drafting. The Deputy Director is preparing a White Paper to be distributed to lawmakers and other interested parties.
- The Authority had received unofficial notification from PHMSA that after the 2018 program evaluation will once again deemed “Adequate”. The Authority scored 252 out of 258 this year which is 40pts higher that the 2017 evaluation

Agenda Item 14:

**New Business:**

- Warning Letter Recommendations -
  1. Windsor Construction, Inc.
  2. J B Contractors, LLCThese will be discussed in Closed Executive Session.
  
- 2020 Meeting Schedule – The Authority was given the 2020 meeting schedule. The schedule was accepted. The decision to cancel the August meeting will be made later in the year. There will be no meeting in July.

Agenda Item 15:

**Next Meeting Date:**

- January 8, 2019 @ 9:00 a.m. – There will be an Open meeting, a Closed Executive Session and hearings.

Agenda Item 15:

**Adjournment and Move to Executive Session**

- The Chairman asked for a motion to adjourn the open meeting and go into closed Executive session the meeting at 10:30 a.m. A motion was made and seconded. The motion was approved and recorded via roll-call vote.

Respectfully Submitted By:  
Susan A. M. Stroud  
Recording Secretary/Deputy Director