



Maryland Underground Facilities Damage Prevention Authority  
AUTHORITY MEETING  
Minutes

Wednesday, October 2, 2019

Agenda Items 1 & 2:

**Call to Order/ Welcome:**

The meeting was called to order by Chair, Erik Phillips at 9:09 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: Dora Parks and Susan Sullivan, Miss Utility; Scott Brown, Vladimir Ledesma and Greg Mason, Washington Gas; Tom Hastings, OCCLS; Lakisha Booth, Shannon Stoltz and Desiree Efferson, OCC; Chris Ratliff, Lamberts; and, Arif Faridi, AD&C

Agenda Item 3:

**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, Bucky Taylor, Walt Gainer, Michael Jewel, Tamara Neal and Joyce Brooks. Doug Levine and Derek Shreves were absent. Jim Barron and Susan Stroud were also present. The PWCA member nominee Amber Brengel was also in attendance as an observer.

Agenda Item 4: (Handout)

**Approval of Minutes:**

Chairman Phillips continued the meeting, calling for the review and approval of the September 4, 2019 Open Session minutes. A motion to accept the minutes as written was made by member Jewell and seconded by Treasurer Gainer. The motion carried and the minutes were approved.

Agenda Item 5:

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

**NPV# 27045** – *Washington Gas v. AD&C Management Company* -Submitted 01/11/19; Alleged Violation(s) of §12-127 (c) (3)– Use of Mechanical EQ within 18”, and did not test pit on 01/18/18. The Authority Recommendation was for a \$2,000 fine reduced to \$1,710.00 through the SFM with a 40% discount of \$684.00 for completion of Damage Prevention Training netting a \$1,026.00 fine

The hearing began at 9:14 a.m. in the Miss Utility Conference Room. Chairman Phillips recused himself from the proceedings and turned the gavel over to Vice Chairman Brooks who then read instructions and asked for representatives from both parties to come forward. Scott Brown was present for Washington Gas; Arif Faridi was present for AD&C Management Company. An attendance roll call was conducted and recorded by the Recording Secretary. There were seven (7) members present, however member Neal and Chairman Phillips recused themselves from the proceedings. Ms. Brengel did not participate in the hearing. The Vice-Chairman then swore in the Executive Director and Messrs. Brown, Faridi and Barron. Mr. Barron was instructed to present his evidence against AD&C Management Company. The recording secretary entered the official evidence package into the record and distributed copies to the Authority, Washington Gas, the complainant, and the defendant, Matters Plumbing.

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 April 9, 2019; which was sent by USPS Certified Mail and returned unclaimed May 2, 2019. A second recommendation letter was delivered via process server on June 20, 2019 The Executive Director stated that...Under “Research by The Authority”: 12-127 (c) (3) – Use of Mechanical EQ within 18” and no test pit while looking for a sewer pipe in order to make a connection, at which point they damaged a 2” plastic gas main with a track hoe. AD&C Management Company did have an active valid ticket at the time of the incident at 9301 Starmist Court, Lanham, MD on January 18, 2018, the day of the incident.

Mr. Faridi entered into evidence a formal statement from his company regarding the incident; in which he stated the they had updated tickets for this project many times and in particular had requested a remark for area near the location of the incident since they claimed the marks had washed away. He stated that the electric lines were clearly marked, and that the gas marks were not clear and faint in other areas on the job site. "...Our staff carefully performed their service only to find an unmarked gas service was on the opposite side of the green sewer stand pipe. We find that the mistake is primarily with the utility locating companies for the gas marking and no clear flags or markings were present within 10-20 feet of the excavated areas even though there were two tickets filed for remarking. Mr. Faridi, stated that he was not present on the job site and that his primary function with AD&C Management Company is to file and update Miss Utility tickets. Mr. Barron noted that AD&C Management Company had filed 410 Miss Utility tickets over the 12-month period, but that the evidence showed that their personnel did not exercise due care as defined in the Duties of Excavator section of Title XII and that the maintaining of marks was the responsibility of AD&C Management Company.

Neither the complainant nor the defendant offered any additional information or evidence when asked by the Vice-Chairman. With no questions or comments from the Authority, the Vice-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 10:00 and the he Authority took a temporary adjournment.

Agenda Item 6: The open meeting reconvened at 10:32

### **Authority Financial Reports:**

The Executive Director provided financial statement for September 2019. He reported that the Operating Account had a balance of \$180,745.55. And the September Education and Outreach Account had a balance of \$47,390.18. There were \$4,206.00 in fines and \$400.00 in filing fees during this period. He also stated that there was a non-budgeted expenditure of \$677.75 to attend the MD Realtors Annual Convention at National Harbor. The Authority shared a booth with Miss Utility to give out information about realty signs and the need to obtain Miss Utility tickets the There no legal fees for the month of September. Chairman Phillips Gainer made a motion to accept the September financial reports, which was seconded by Treasurer Gainer. The motion was approved by acclamation.

Agenda Item(s) 7&8:

### **Future Scheduled Hearings**

**November 6, 2019**

- **NPV# 19551** – Washington Gas vs. Zavala Contracting, Inc.  
Submitted 05/17/18; Alleged Violations – 08/30/17- §12-124 (a) – No Ticket – 1<sup>st</sup> Offense: Recommendation - \$2,000 fine reduced to \$1,675 through the SFM with a 50% discount of \$837.50 for completion of Damage Prevention Training netting a \$837.50 fine. Received a phone call request on April 10, 2019 for a hearing.
- **NPV# 19551** – Washington Gas vs. Prime Solutions Group  
Submitted 09/14/18; Alleged Violations – 11/06/17 - §12-124 (a) – No Ticket – 1<sup>st</sup> Offense: Recommendation - \$2,000 fine reduced to \$1,880 through the SFM with a 40% discount of 752.00 for completion of Damage Prevention Training netting a \$1,128.00 fine

**December 4, 2019**

- **NPV# 26611** – Verizon vs. SMI Services, LLC  
Submitted 11/9/18; Alleged Violations – 6/20/189 - §12-124 (a) – Notice to one-call system – 2<sup>nd</sup> Offense: Recommendation- \$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

Agenda Item 9:

**Move to Closed Executive Session**

The Executive Director made a request for the meeting to go into closed executive session at 10:42 a.m. Ms. Neal made the motion and Vice-chairman Brooks seconded the motion. The recording secretary took the roll call vote, which was approved by a majority of members present and the open meeting was then closed.

Agenda Item 10:

**NPV's for Additional Review:**

Please chart below

Agenda Item 11: (Handouts)

**Open NPV Spreadsheet and Closed/Incomplete Spreadsheets**

Please see 10/02/19 handout for updates

Agenda Item 12: (Handout)

**New NPV's for Research and Review**

Agenda Items 7,8 & 13

**NPV's for Authority Review:**

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

<b>NPVs to Move to Hearing</b>	
NPV# 18306	Washington Gas vs. Arundel Excavation - submitted 01/30/18 Alleged Violation on 08/02/17 of §12-124 (a) – Notice to one-call system – 1 <sup>st</sup> Offense – No action since 9/6/18
NPV# 27366	Washington Gas vs. Arundel Excavation -Submitted 02/21/19 Alleged Violations on 02/19/18 of §12-124 (a) – Notice to one-call system – 2 <sup>nd</sup> Offense – No action since August 29, 2019
<b>NPVs for Further Review</b>	<b>Case</b>
NPV# 20014	Verizon vs. Advantage Asphalt & Paving, LLC Alleged Violation §12-124 (a) – Notice to one-call system – 1 <sup>st</sup> Offense Recommendation: \$2,000 fine reduced to \$1,740.00 through the SFM with a 40% discount of \$696.00 for completion of Damage Prevention Training netting a \$1,044.00 fine. Requesting a Payment Schedule of six payments of \$150.00 each and one final payment of \$144.00
NPV# 26860	BGE vs. Armstrong Construction Alleged Violation: §12-127 (c) (3) – Use of Mechanical EQ within 18” §12-127 (d) (2) – Did not call 911; \$2,000 fine reduced to \$1850 through the SFM with a 40% discount of \$740.00 for completion of Damage Prevention Training netting a \$1,110.00 fine. 2 <sup>nd</sup> \$2,000 fine reduced to \$1,850 through the SFM with a % discount of \$0.00 for completion for completion of Damage Prevention Training netting a \$1950 fine.
<b>NPV's Post Hearing Review</b>	
NPV# 27045	NPV# 27045 – Wash Gas vs. AD&C Management Company §12-127 (c) (3)– Use of Mechanical EQ within 18”
<b>New NPV's for Review</b>	
NPV# 28289	Wash Gas vs. R&O Contractors, LLC §12-124 (a) – No Miss Utility Ticket – 1 <sup>st</sup> Offense

NPV# 28290	Wash Gas vs. Rodrigues Construction, Co. §12-124 (a) – No Miss Utility Ticket – 1 <sup>st</sup> Offense
NPV# 28291	Wash Gas vs. Environmental Technical Services, Inc. §12-124 (a) – No Ticket – 1 <sup>st</sup> Offense
NPV# 28292	Wash Gas vs. Delta Contractors §12-127 (c) (2) – No Test Pit – Mech EQ within 18” of the marks
NPV# 28570	Wash Gas vs. AB&H Excavating §12-124 (a) – No Ticket – 1 <sup>st</sup> Offense
NPV# 28572	Wash Gas vs. LJS Associates §12-124 (a) – No Ticket – 2nd Offense

Please see 10/02/19 handout for updates on these cases. There are currently 12 NPV’s awaiting review.

#### Agenda Item 14

#### Old Business:

- Term Expirations (9/30/19) – All participating organizations were sent letters regarding the status of their representatives on June 13, 2019. Amber Brengel of Beltsville Supply has been submitted to replace George “Bucky” Taylor as the PWCA Member
- Bruce Bereano meet with Dereck Davis on Thursday, September 26, 2019 to have the Title XI re-write put into Legislative Format
- The 2018 PHMSA Adequacy Evaluation questionnaire was submitted to PHMSA on Thursday, September 26, 2019
- The 2018 PHMSA State Damage Prevention Grant Year ended on 9/21/19. Susan is preparing the Final Report for submission before 10/30/19
- We received notification that the Authority is the recipient of a \$97,000 2019 State Damage Prevention Grant from PHMSA.
  
- The Authority partnered with Miss Utility on a booth at the Maryland Realtors Conference at National Harbor. New literature was developed expressly for realtors regarding the installation for realty signs and the need for calling 811 before they are installed. The realtors were very receptive to the information and many were unaware that there was a requirement to call Miss Utility. The Authority will consider

adding this event to their calendar provided the convention moves back to the original venue in Ocean City, National Harbor is far too expensive.

Agenda Item 15:

**New Business:**

- Warning Letter Policy: Dora Parks has requested that the Authority send a warning letter to Orkin Pest Control regarding their practice of boring around structures without a Miss Utility ticket. The Authority would have to establish a new policy which would allow the practice of issuing warning letters. A policy discussion and vote will take place in Closed Executive Session.
- The Authority will again be presenting a Mock Hearing at the 2019 Greater Chesapeake Damage Prevention Conference on Thursday, October 24<sup>th</sup>.

Agenda Item 16:

**Next Meeting Date:**

- November 6, 2019 @ 9:00 a.m. – there will be an Open meeting, a Closed Executive Session and hearings.

Agenda Item 17:

**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 10:42 a.m. A motion was made by member Neal and seconded by Secretary Ruddo. The motion was approved and recorded via roll-call vote.

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