



## **Maryland Underground Facilities Damage Prevention Authority**

Wednesday, September 13, 2023  
9:00 AM

The Miss Utility One Call Center  
Lower-Level Conference Room 103  
7223 Parkway Drive  
Hanover, MD 21076

### **Open Meeting Agenda**

1. Call to Order – Chair David Gaines
2. Introductions
3. Roll Call Attendance, Establish a Quorum – Susan Stroud
4. Approval of August 9, 2023, Open Meeting Minutes
5. Old NPV's – **Cancelled** - Formal Hearing on September 13, 2023. Reschedule for December 13, 2023.
  - a. NPV# 29916 – DXI (Old Dixie) vs. BGE
    - i. Submitted 11/25/19.
    - ii. Location: 9250 Judicial Way, aka, 9250 Bendix Road, Columbia, MD
    - iii. Alleged Violation 11/19/19
      1. §12-126 (b) (1) – Failure to mark within 18 inches
    - iv. Recommendation Letter sent March 18, 2020, recommending a fine of \$1,032.00 and a policy statement outlining what change BGE will make so this doesn't happen again.
    - v. Requested a Formal Hearing on April 14, 2020
    - vi. Notice of Hearing sent on May 20, 2020, setting August 5, 2020, as the Formal Hearing Date.
    - vii. Due to COVID 19, the Formal Hearing was cancelled to be rescheduled at a later date.
    - viii. Another Hearing Inquiry letter was sent on April 1, 2022, to see if BGE still wanted to go forward with the Formal Hearing
      1. No response to date to that letter
    - ix. Notice of Hearing Letters were sent to BGE and DXI (Old Dixie) on August 1, 2023
  - b. NPV# 30088 – Gaines and Company vs. BGE

- i. Submitted 12/20/19.
- ii. Location: Trotters Knoll @ Wendy Court, Trotter Chase, Ellicott City, MD
- iii. Alleged Violations 12/19/19 – That BGE failed to follow the appropriate marking guidelines set for in:
  - 1. §12-126 (a) (1) – Failure to mark if facility is within 5 feet of the proposed excavation
  - 2. §12-126 (b) (1) – Failure to mark within 18 inches of facility
  - 3. §12-126 (c) (1) – Failure to report “Marked” to the Information Exchange System at Trotters Knoll & Wendy Court, Trotter Chase, Ellicott City MD on December 19, 2020, the date of the incident
- iv. Recommendation Letter sent March 18, 2020, recommending a fine of \$864.00 and a policy statement outlining what change BGE will make so this doesn’t happen again.
- v. Requested a Formal Hearing on April 17, 2020
- vi. Notice of Hearing sent on May 20, 2020, setting August 5, 2020, as the Formal Hearing Date.
- vii. Due to COVID 19, the Formal Hearing was cancelled to be rescheduled at a later date.
- viii. A Hearing Inquiry letter was sent on April 1, 2022, to see if BGE still wanted to go forward with the Formal Hearing
  - 1. No response to date to that letter
- ix. Notice of Hearing Letters were sent to BGE and Gaines and Company on August 1, 2023

6. New NPV’s for Research and Review (19 each)

- a. Types of Probable Violations
  - i. 9 Marking
  - ii. 6 No ticket
  - iii. 1 Repeat Notification
  - iv. 3 Due Care
  - v. 2 under the Post 3/11/21 Statute
  - vi. 17 under the Post 6/01/22 Statute

7. New NPV’s for Review by the Authority in Closed Executive Session

Two (2) NPV’s for §12-124 (a) – No Miss Utility Ticket – 1<sup>st</sup> Offense, Both filed by Washington Gas, No Response from Probable Violators.

- a. NPV# 32318 – Wash Gas vs. Jesus Herrera Martinez
  - i. Location: 617 Balboa Ave, Capitol Heights, MD 20743
  - ii. Submitted 05/10/23
  - iii. Alleged Violations 07/04/22 (Under Post 6/01/22 Statute)
    - 1. §12-124 (a) – No Miss Utility Ticket – 1<sup>st</sup> Offense
  - iv. The Probable Violator did not response to Notice of Investigation Letter.
  - v. Damaged a ½” Gas Service, Regulator and Meter Build Up.
  - vi. Recommended fine of \$1,044.00 and Damage Prevention Training

- b. NPV# 32321 – Wash Gas vs. Adcock & Associates, LLC

- i. Location: 7122 Mandalong Way, New Market, MD 21774
- ii. Submitted 05/11/23
- iii. Alleged Violations 07/14/22 (Under Post 6/01/22 Statute)
  - 1. §12-124 (a) – No Miss Utility Ticket – 1<sup>st</sup> Offense
- iv. The Probable Violator did not response to Notice of Investigation Letter.
- v. Damaged a ¾" Gas Service.
- vi. Recommended fine of \$1,044.00 and Damage Prevention Training

Four (4) NPV's that we will reviewed and voted on individually. Three (3) submitted by Gaines and Company and one (1) submitted by Washington Gas

- a. NPV#32305– Gaines and Company vs. BGE (tabled from 8/9/23 Meeting)
  - i. Location: Cedar Hill Blvd. at Workers Drive, Cedar Hill Subdivision, Brooklyn, MD 21201
  - ii. Submitted 12/02/22.
  - iii. Alleged Violations 12/02/22 (Under Post 6/01/21 Statute)
    - 1. §12-126 (a) (1) – Failure to mark within 5 feet
    - 2. §12-126 (b) (1) – Failure to mark within 18 inches
    - 3. §12-126 (b) (2) (i) – Failure to use correct color codes
    - 4. §12-126 (c) (1) – Failure to report "Marked" in the Information Exchange System
    - 5. §12-126 (d) (2) – Failure to create a "Documented Agreement" for a Code 7, "Not complete/In progress"
  - iv. A response was received by email on January 17, 2023, from Justin Lowthert, of UtiliQuest, LLC where he stated "Utiliquest does not deny responding to the discrepancy late."
  - v. There was no damage.
  - vi. This is a Subsequent Violation, so the recommended fine is \$3,160.00 and a required Policy Change Letter.
  
- b. NPV# 32306 – Gaines and Company vs. Comcast
  - i. Location: Cedar Hill Blvd & Workers Dr. Cedar Hill Subdivision, Brooklyn, MD
  - ii. Submitted 12/2/22
  - iii. Alleged Violations 12/2/22 (Under Post 6/01/22 Statute)
    - 1. §12-126 (a) (1) – Failure to mark within 5 feet
    - 2. §12-126 (b) (1) – Failure to mark within 18 inches
    - 3. §12-126 (b) (2) (i) – Failure to use correct color codes
    - 4. §12-126 (c) (1) – Failure to report "Marked" in the Information Exchange System
    - 5. §12-126 (d) (3) – Failure to request an extension in the Information Exchange System
  - iv. A response was received by email on March 29, 2023, with a 1/16/23 response from Justin Lowthert, of UtiliQuest, LLC stating that NOPV 32306 ws never forwarded to Utiliquest.
  - v. There was no damage.
    - i. This is a Subsequent Violation, so the recommended fine is \$3,160.00 and a required Policy Change Letter.
  
- c. NPV# 32307 – Gaines and Company vs. Washington Gas

- ii. Location: Vista Glen Lane at Vista Green Lan, Lanham, MD
  - iii. Submitted 01/31/23.
  - iv. Alleged Violations 01/30/23 (Under Post 6/01/22 Statute)
    - 1. §12-126 (a) (1) – Failure to mark within 5 feet
    - 2. §12-126 (b) (1) – Failure to mark within 18 inches
  - ii. A response was received by email on March 29, 2023, with a 2/13/23 response from Justin Lowthert, of UtiliQuest, LLC explaining what happened on this NPV (**response to be reviewed in detail**)
  - iii. There was no damage.
  - iv. This is a Subsequent Violation, so the recommended fine is \$3,160.00 and a required Policy Change Letter.
- a. NPV# 32316 – Wash Gas vs. Eastern Excavating & Grading, Inc.
- i. Location: 15509 New Hampshire Ave, Silver Spring, MD 20905
  - ii. Submitted 04/21/23
  - iii. Alleged Violations 06/07/22 (Under Post 6/01/22 Statute)
    - 1. §12-127 (c) (3) – Failure to Test Pit before Excavating
  - iv. The Probable Violator did not response to Notice of Investigation Letter.
  - v. Damaged a 2" Gas Service.
  - vi. Recommended fine of \$1,026.00 and Damage Prevention Training
8. Second review of NPV# 32301, reviewed at the 4/12/23 meeting, based on consideration that the payment of the \$1,044.00 fine is a hardship on the Probable Violator. To be reviewed in Closed Executive Session.
- a. NPV#32301– BGE vs. Matko Lee Chullin (**tabled from 8/9/23 Meeting**)
- i. Location: 109 Oella Avenue, Catonsville, MD 21228
  - ii. Submitted 09/20/22.
  - iii. Alleged Violations 06/07/21 (Under Post 6/1/22 Statute)
    - 1. §12-124 (a) – No Miss Utility Ticket – 1<sup>st</sup> Offense
  - iv. No response to Notice of Investigation Letter
  - v. Damaged an Electric Service Line putting 1 customer out of service.
  - vi. Recommended fine of \$1,044.00 and Damage Prevention Training
    - 1. Responded to Recommendation Letter by phone
  - vii. Following a lengthy discussion with Jim Barron, Mr. Chullin has submitted a written request by email on 8/8/23 requesting a reduction in the fine due to a personal hardship.
9. Old Business
- a. The Construction Angels/Miss Utility Subscribers Board of Directors Golf Tournament \$550.00 Closest to the Pin Sponsorship has been made.
  - b. 2023 Maryland Radio Campaign request for \$20,000 has been made

10. New Business

- a. Recognize out going Authority Members
    - i. Amber Brengel, Tamara Neal, Paul Kwiatkowski
- 11. Motion to Adjourn and move into Closed Executive Session
- 12. Next Meeting Date
  - a. There will be no meeting in October due to a conflict with the Maryland Subscribers Meeting.
  - b. November 8, 2023, In Person Open Meeting where we will seat three (3) new members and have a Closed Executive Session.