



Minutes for the Underground Technical Committee on May 17, 2018 – 10:00 a.m., Hearing Room 11-C

- Call to Order
Roll Call & Declaration of Quorum
Attendance: Potnick, Callan, Stewart, Ward\*, Kelly, Igel, Celona, Woods, Corrin, Hocevar, Losinski, Motzer, Perry\*, Reams (\* indicates attendance via teleconference)
Swearing in of Any Newly Appointed and/or Re-Appointed Members
John Kelly was sworn in for his re-appointment
Approval of Minutes from March 15, 2018 Meeting
Minutes approved as submitted
Cases to be Heard:

Table with 3 columns: Case No., Complainant, Respondent. Row 1: 17-00063, Montgomery County, Thayer Power & Communications

Recusals: None

Discussion: Pictures appear to indicate that there was no digging prior to the 48hr deadline. However, pictures may indicate that there is no evidence of potholing. Examination and discussion of photos in case file. Appears as though the boring machine is engaged and bored as indicated in pictures. This would indicate may not have waited since could not have bored that far in 9 minutes. No indication of pothole near water crossing.

Motion: Find Respondent in violation of 3781.28(A) and 3781.30(B)

Vote: Unanimous.

Penalty Discussion: First violation. PIP is the usual penalty.

Penalty Motion: PIP. Vote: Unanimous.

Table with 3 columns: Case No., Complainant, Respondent. Row 1: 17-00065, B&B Excavating, Spectrum

Recusals: Corrin (was employed by USIC at time of violation), Celona, Ward

Discussion: Was tabled last meeting to find out if Spectrum was notified ONLY because the complainant asked OUPS to add them to the notification. OUPS confirmed that Spectrum would NOT have otherwise been notified.

Motion: Insufficient evidence to indicate a violation. No Enforcement Action.

Vote: Unanimous

**18-00001**                      **B&B Wrecking & Excavating**                      **Charter Communications**

Recusals: Ward

Discussion: Notification did not go to correct department until close to the meeting. Tabled to allow Spectrum time to respond. Was sent to Charter third party risk management company.

Motion: Tabled.

**18-00002**                      **City of Delaware**                      **Clayton Homes**

Recusals: None

Discussion: Respondent admits to compliance failure. Discussion that Respondent does not believe it needs to call before digging as required.

Motion: Respondent is in violation of 3781.28(A)

Vote: Unanimous

Penalty Discussion: First offense. PIP to include documentation of employee training.

Vote: Unanimous

**18-00003**                      **Direct Set USA**                      **Frontier Communications**

Recusals: Corrin (was employed by USIC at time of violation)

Discussion: Need to be aware that there was a claim of no conflict on first ticket on time (but this was incorrect). Facilities were marked on a subsequent ticket (but late). This may happen in future complaints. No contest because it was missed first time. Violation is on the first ticket. No violation on the second.

Motion: Frontier in violation of 3781.29(A)(1)

Vote: For: (*all but Frank, correct later*)      Against: Ward

Penalty Discussion: 2<sup>nd</sup> Violation. Last decision Nov 2016. Because of the time and lack of violation then company should review its previously submitted plan (not revise it).

Motion: Review PIP and submit update. 30 days.

Vote: Unanimous.

**18-00005**                      **Direct Set USA**                      **Spectrum**

Recusals: Corrin (was employed by USIC at time of violation), Celona, Ward

Discussion: Respondent plead no contest. Similar to 18-00004 – no conflict first time, located second time.

Motion: Spectrum in violation of 3781.29(A)(1)

Vote: Unanimous

Penalty Discussion: Discussed previous violations and results as well as previous actions from UTC on other companies with multiple violations (\$250 would be consistent with previous action by UTC with a mandatory fine). Spectrum receives a high volume of locate requests. Should UTC progress every time? Or should cases where a high-volume company makes

mistakes be given more non-monetary penalties? Do nature, circumstances, and gravity warrant a fine in this case?

Motion: \$250 fine was then amended to a \$500 fine in abeyance pending a revised PIP.

Vote: Unanimous.

**18-00004**

**Direct Set USA**

**AEP**

Recusals: Corrin (was employed by USIC at time of violation), Losinski

Discussion: Issues with the way the ticket was submitted, 3<sup>rd</sup> party locator attempted to resolve the issue as expected.

Motion: No violation of 3781. No Enforcement Action.

Vote: Unanimous

**18-00007**

**Dominion Energy Ohio**

**C&J Contractors Inc**

Recusals: Corrin (was employed by USIC at time of violation), Celona

Discussion: Unlikely that the marks would survive that long and excavator should have called them in again. Pictures may indicate that not calling in new marks was acceptable because excavation where original marks were placed was not intended (page 4 of respondent response). Damage seems to have occurred because there were no marks to indicate the gas line was there. Was that because it was mis-located or because the marks were not preserved? Evidence is insufficient to make a determination.

Motion: No Enforcement Action due to insufficient evidence.

Vote: Unanimous.

**18-00009**

**Robert Pierce**

**City of Wellston**

Recusals: None.

Discussion: City of Wellston did not respond on multiple tickets. Despite the fact that it believes there are not facilities, Wellston is still required to respond to ticket under the law.

Motion: City of Wellston is in violation of 3781.29(A)(1).

Vote: Unanimous

Penalty Discussion: First violation. Also provided information that it provided training to its employees from OUPS.

Motion: Accept the information on the training provided as sufficient.

Vote: Unanimous

**18-00011**

**Nicholas Wilson**

**Wide Open West**

Recusals: None.

Discussion: Discussed response and responses to question. Dog on site. WOW stated that it went to site when excavator called in and excavator not present. Does that constitute direct contact? Should WOW have called as requested by excavator? No evidence or response to indicate that phone call was made.

Motion: WOW is in violation of 3781.29(A)(1)

Vote: *For*-Potnick, Stewart, Ward, Kelly, Igel, Celona, Woods, Corrin, Hocevar, Losinski, Motzer, Perry, Reams; *Against*-Callan

Penalty Discussion: Table penalty until 17-00055 is resolved. Vote: Unanimous.

**18-00012**

**Nicholas Wilson**

**AT&T**

Recusals: None.

Discussion: Circumstances exactly the same as 18-00011.

Motion: AT&T in violation of 3781.29(A)(1).

Vote: *For*: Against: Callan

Penalty Discussion: Violation history reported by secretary. PIP focused on 004 responsibilities since first time for this specific type of violation.

Motion: PIP addressing 004 response code.

Vote: *For*-Potnick, Stewart, Ward, Kelly, Igel, Celona, Woods, Corrin, Hocevar, Losinski, Motzer, Perry, Reams; *Against*-Callan

**18-00013**

**Nicholas Wilson**

**AEP**

Recusals: Losinski

Discussion: Circumstances exactly the same as 18-00011 and 18-00012.

Motion: AEP in violation of 3781.29(A)(1).

Vote: *For*-Potnick, Stewart, Ward, Kelly, Igel, Celona, Woods, Corrin, Hocevar, Motzer, Perry, Reams; *Against*-Callan

Penalty Discussion: See 18-00012.

Motion: PIP addressing 004 response code.

**18-00014**

**Nicholas Wilson**

**Spectrum**

Recusals: Ward

Discussion: Notification did not go to correct department until close to the meeting. Tabled to allow Spectrum time to respond. Was sent to Charter third party risk-management company.

Motion: Tabled.

Vote: Unanimous.

**18-00015**

**Daniel LaRiviere**

**Butler County Water & Sewer**

Discussion: Complainant submitted written request to withdraw.

Motion: Approve withdrawal request. Vote: Unanimous.

- Status update on cases
  - 3 Cases ready to go, several others in the process that may be ready
- Old Business
  - Follow-up on cases already decided:
    - PIPs
      - 17-00035 – Not received, Staff will investigate
      - 17-00036 – Not received, Staff will investigate
      - 17-00042 – Officers requesting more information from Respondent
      - 17-00047, 48, 49, 50, 56, 59 – Report submitted to officers
- New Business
  - Rob Fadley – suggest “assigning” each case to a member of the UTC to present the important facts in an effort to streamline discussion and process cases more efficiently. Something for consideration, discussion tabled until next meeting.
- Next Meeting
  - Scheduled for August 9, 2018 at 10:00am. (Rob Fadley will not be present)
- Adjourn