



**Agenda for the Underground Technical Committee on
August 15, 2019 – 10:00 a.m., Hearing Room 11-B**

Updated on August 16, 2019

<u>Case No.</u>	<u>Complainant</u>	<u>Respondent</u>
18-00072	Hinckley Township	Ohio811

Recusals: JEWELL, LOZINSKI, MOTZER, WARD

Discussion: Complainant said that Ohio811 did not provide accurate call ticket information to the locator. An audio recording of the 811 call in question was played. The Ohio811 customer service representative (CSR) did not include all of the information provided by the excavator but did repeat the information to go on the call ticket back to the excavator who confirmed its accuracy. Some discussion occurred on whether the locator did or did not mark the line correctly based on the information that was provided on the call ticket. A discussion occurred on whether the UTC sent notification to Ohio811 of the complaint within the required 10 days. The complainant sent an initial response on April 3, 2019 and an amended response on May 14, 2019. Ohio811 received a Report of Inquiry letter on May 17, 2019. PUCO Staff to provide a legal opinion to the UTC for the next meeting.

Violation: The UTC determined no violation occurred. Vote was 11-1 with CALLAN dissenting.

Penalty Discussion: No penalty discussion/ Non- Violation.

19-00008	City of Marysville	VLD Grading
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Recusals: NONE

Discussion: Tabled from previous meeting. Multiple tickets were called in for locating, some more than 10 days prior to excavation. PUCO Staff legal opinion; There is no requirement for excavation to start within 10 days of an initial call.

Violation: The UTC determined no violation occurred. Unanimous.

Penalty Discussion: No penalty discussion/ Non-Violation.

19-00012

Cedar Valley Energy, Inc.

Ohio811

Recusals: JEWELL, LOZINSKI, MOTZER, STEWART, WARD

Discussion: Allegation is Ohio811 failed to provide accurate descriptions of the work site. The excavator may have put two separate excavation locations on one call ticket without making this clear to Ohio811. One location was a street address and the other referenced a mile marker. Discussion centered around whether Ohio811 can be held responsible if the excavator does not provide accurate information.

Violation: The UTC determined no violation occurred. Unanimous.

Penalty Discussion: No penalty discussion/Non-Violation.

19-00016

Tennessee Gas Pipeline

Robinson Services

Recusals: NONE

Discussion: The respondent admitted the violation in their written response. They called Ohio811 but did not wait the required 48 hours. The complainant also alleged a violation of R.C. 3781.28(c) for failure to comply with special notice requirements of the public safety program of interstate gas pipelines. This violation was determined to have not occurred because the respondent started excavating before being contacted by the complainant to be informed of these requirements.

Violation: Violation of 3781.28(A). Respondent commenced excavation less than forty-eight hours after contacting Ohio811. Unanimous.

Penalty Discussion: Requirement for respondent to attend safety training and submit adequate documentation to the UTC in accordance with previous precedent in similar cases. Unanimous.

19-00017

Tennessee Gas Pipeline

Mahlon Zook

Recusals: NONE

Discussion: The respondent pleaded no contest for failure to call Ohio811 prior to excavation. The complainant also alleged a violation of R.C. 3781.28(c) for failure to comply with special notice requirements of the public safety program of interstate gas pipelines. This violation was determined to have not occurred because the respondent started excavating before being contacted by the complainant to be informed of these requirements.

Violation: Violation of 3781.28(A). Respondent commenced excavation without contacting Ohio811. Unanimous.

Penalty Discussion: Requirement for respondent to attend safety training and submit adequate documentation to the UTC in accordance with previous precedent in similar cases. Unanimous.

19-00018 **Tennessee Gas Pipeline** **John Rust Excavating**

Recusals: NONE

Discussion: Alleged that no ticket called in prior to excavation. The respondent was adding and grading fill for a parking area next to his garage. Discussion about whether the work performed by the respondent met the definition of Excavation in R.C. 3781.25. There may be a Federal definition that is more expansive but the UTC is limited to enforcing state law.

Violation: The UTC determined no violation occurred because the work performed over the pipeline in question does not meet the definition of Excavation. Unanimous.

Penalty: No penalty discussion.

19-00019 **New River Electric** **CenturyLink**

Recusals: MOTZER

Discussion: Alleged that Respondent did not mark. CenturyLink admitted the violation in their written response. They attributed the failure to complications that arose from switching line locating contractors and offered a performance improvement plan to correct the problem. The performance improvement plan offered by CenturyLink was deemed to be detailed and comprehensive, and committed to a target completion date of July 31, 2019.

Violation: Violation of 3781.29(A)(1), failure to locate and mark within forty-eight hours of receiving notice. Unanimous.

Penalty: The performance improvement plan submitted by CenturyLink was determined to be an adequate response. Unanimous.

19-00020 **Wayne County Engineer** **CenturyLink**

Recusals: MOTZER

Discussion: Alleged that Respondent did not mark. CenturyLink admitted the violation in their written response. They attributed the failure to complications that arose from switching line locating contractors and offered a performance improvement plan to correct the problem. The performance improvement plan offered by CenturyLink was deemed to be detailed and comprehensive, and committed to a target completion date of July 31, 2019.

Violation: Violation of 3781.29(A)(1), failure to locate and mark within forty-eight hours of receiving notice. Unanimous.

Penalty: The performance improvement plan submitted by CenturyLink was determined to be an adequate response. Unanimous.

19-00021
Sewer Dept.

Micronet Solutions, Inc.

City of Lancaster Water &

Recusals: NONE

Discussion: Alleged that Respondent failed to mark sewer and water line. The respondent stated they have no record of any damage to their infrastructure from the excavation in question and that the damaged lines were on private property and not owned by the City of Lancaster. The City is not obligated to mark privately owned lines.

Violation: The UTC determined no violation occurred because the City of Lancaster had no obligation to mark the lines that were damaged. Unanimous.

Penalty: No penalty discussion.

19-00022

Dominion Energy Ohio

Precision Waterproofing

Recusals: CELONA, CORRIN

Discussion: Dominion alleged that Respondent did not call Ohio811 prior to excavation, damaged a Dominion gas line during excavation, attempted to repair the line using radiator clamps and other materials not approved for gas pipeline use, and failed to report the excavation damage to Dominion to allow them to make repairs. The respondent claims they contacted Ohio811 but no call ticket was provided to support this claim. The respondent admitted to attempting to repair the line in the field, and that Dominion was informed by the homeowner calling about a gas outage the next day. The outage was caused by the service line excess flow valve at the curb cycling on and off due to the volume of gas leaking from the damaged gas line. The failure to report the damage to Dominion resulted in significant threat to public safety as gas

could have easily built up to an explosive concentration in the house at this address from the leaking gas line at the building foundation.

Violation: Violation of 3781.28(A), failure to contact Ohio811 prior to commencing excavation, and 3781.30(A)(6) for failure to report excavation damage to Dominion Energy Ohio.
Unanimous.

Penalty: A monetary penalty was determined to be appropriate based on the severity of the violation. Respondent must submit an acceptable performance improvement plan, receive and provide documentation of safety training, and pay a fine of \$250 within 30 days of notification.
Unanimous.

19-00023

J&T Excavating LLC

Columbia Gas of Ohio

Recusals: CELONA

Discussion: Columbia Gas was unable to tone the tracer wire for a 4-inch plastic main in the area. Complainant called Ohio811 on February 7, 2019 for excavation to start on February 11. A request for re-marking was made on February 19, 2019 and an additional request for re-marking was made on February 25, 2019. On February 26, 2019 CTS Utilities, LLC working as a contractor for Columbia Gas attempted to locate the 4" main at the excavation site with a vac truck without success. On March 4, 2019 Columbia Gas again attempted to locate the 4" main through excavation without success and marked the 4" main according to Columbia's records. A tracer wire connection was eventually found and the main location was found to be approximately 15 feet away from where Columbia's records placed the main. Columbia's response to the investigation did not address events that occurred in February so it is difficult to determine exactly what did or did not happen.

Violation: Violation of 153.64(B)(2)(a), failure to mark the location of underground facilities.
Unanimous.

Penalty: Columbia Gas was still in their window of developing a performance improvement plan from a previous violation. The UTC determined this performance improvement plan would be adequate to address the violation. Unanimous.

19-00024

Cy Schwieterman, Inc.

CenturyLink

Recusals: MOTZER

Discussion: Alleged that Respondent did not mark. CenturyLink admitted the violation in their written response. They attributed the failure to complications that arose from switching line

locating contractors and offered a performance improvement plan to correct the problem. The performance improvement plan offered by CenturyLink was deemed to be detailed and comprehensive, and committed to a target completion date of July 31, 2019.

Violation: Violation of 3781.29(A)(1), failure to locate and mark within forty-eight hours of receiving notice. Unanimous.

Penalty: The performance improvement plan submitted by CenturyLink was determined to be an adequate response. Unanimous.

19-00025 PRG Consulting AA Plumbing

Recusals: NONE

Discussion: The respondent struck a 4” plastic gas main that was marked in the tolerance zone with a backhoe. The UTC determined that PRG Consulting is not an aggrieved party and this is an invalid complaint. Any complaint should have been made by Duke Energy.

Violation: The UTC determined no violation occurred. Unanimous.

Penalty: No penalty discussion

19-00026 Dominion Energy Ohio Monte Construction

Recusals: CELONA, CORRIN

Discussion: The respondent cut a Dominion service line in order to lower in a new sewer line. The respondent admitted to intentionally cutting the line in their written response.

Violation: Violation of 3781.30(A)(4), failure to conduct the excavation within the tolerance zone in a careful, prudent, and nondestructive manner. Unanimous.

Penalty: The UTC determined that a monetary penalty was appropriate in this instance due to the threat to public safety from intentionally cutting gas lines. Respondent must submit an acceptable performance improvement plan, receive and provide documentation of safety training, and pay a fine of \$250 within 30 days of notification. Unanimous

19-00027 City of Dayton Water Vectren Energy Delivery of Ohio

Recusals: CELONA

Discussion: The complainant requested this complaint be withdrawn. Markings at a construction site were delayed due to inclement weather. After review of the case the UTC determined that the withdrawal of the complaint was appropriate.

Violation: The UTC accepted the request for withdraw of compliant. The UTC did not address violation/non-violation. Unanimous.

Penalty: No penalty discussion

19-00028

City of Dayton Water

AT&T

Recusals: NONE

Discussion: The complainant requested this complaint be withdrawn. Markings at a construction site were delayed due to inclement weather. After review of the case the UTC determined that the withdrawal of the complaint was appropriate.

Violation: The UTC accepted the request for withdraw of compliant. The UTC did not address violation/non-violation. Unanimous.

Penalty: No penalty discussion

19-00029

City of Dayton Water

Cincinnati Bell Telephone

Recusals: NONE

Discussion: The complainant requested this complaint be withdrawn. Markings at a construction site were delayed due to inclement weather. After review of the case the UTC determined that the withdrawal of the complaint was appropriate.

Violation: The UTC accepted the request for withdraw of compliant. The UTC did not address violation/non-violation. Unanimous.

Penalty: No penalty discussion

19-00030

City of Dayton Water

Dayton Power and Light

Recusals: NONE

Discussion: The complainant requested this complaint be withdrawn. Markings at a construction site were delayed due to inclement weather. After review of the case the UTC determined that the withdrawal of the complaint was appropriate.

Violation: The UTC accepted the request for withdraw of compliant. The UTC did not address violation/non-violation. Unanimous.

Penalty: No penalty discussion

19-00031 **City of Dayton Water** **Spectrum Utilities**

Recusals: CELONA, WARD

Discussion: The complainant requested this complaint be withdrawn. Markings at a construction site were delayed due to inclement weather. After review of the case the UTC determined that the withdrawal of the complaint was appropriate.

Violation: The UTC accepted the request for withdraw of compliant. The UTC did not address violation/non-violation. Unanimous.

Penalty: No penalty discussion

19-00032 **Majaac, Inc.** **CenturyLink**

Recusals: MOTZER

Discussion: Alleged that Respondent did not mark. CenturyLink admitted the violation in their written response. They attributed the failure to complications that arose from switching line locating contractors and offered a performance improvement plan to correct the problem. The performance improvement plan offered by CenturyLink was deemed to be detailed and comprehensive, and committed to a target completion date of July 31, 2019.

Violation: Violation of 3781.29(A)(1), failure to locate and mark within forty-eight hours of receiving notice. Unanimous.

Penalty: The performance improvement plan submitted by CenturyLink was determined to be an adequate response. Unanimous.

19-000334 **Darke Rural Electric Cooperative** **CenturyLink**

Recusals: MOTZER

Discussion: Alleged that Respondent did not mark. CenturyLink admitted the violation in their written response. They attributed the failure to complications that arose from switching line locating contractors and offered a performance improvement plan to correct the problem. The performance improvement plan offered by CenturyLink was deemed to be detailed and comprehensive, and committed to a target completion date of July 31, 2019.

Violation: Violation of 3781.29(A)(1), failure to locate and mark within forty-eight hours of receiving notice. Unanimous.

Penalty: The performance improvement plan submitted by CenturyLink was determined to be an adequate response. Unanimous.

Previous Business

Previous performance improvement plans required as corrective action by the UTC were not received for cases 18-00025, 18-00026, 18-00027, and 18-00028. The UTC determined that letters be sent to the respondents for each of these cases requiring the performance improvement plan be delivered within 30 days and if these plans were not received a \$500 fine would be assessed. PUCO Staff will send these letters out via certified mail. Unanimous.

Three respondents from previous cases reported they had completed UTC mandated safety training but provided insufficient documentation to demonstrate training had been completed (Moore, Watts, Wheeler). PUCO Staff has developed a form that can be used to demonstrate compliance with excavation training and will mail this form to the appropriate respondents once it is approved by UTC officers.

The UTC accepted performance improvement plans submitted by Columbia Gas of Ohio and Toledo Edison. The UTC did not accept a performance improvement plan submitted by Polchovski Excavating (Case 18-00058) and voted to send it back for revision. Unanimous.

Cases 17-00063 and 18-00002 were previously recommended to be referred to the Office of the Attorney General for escalated enforcement action. So far these cases have not been referred. PUCO Staff will report to the UTC on the process for referring cases to the Office of the Attorney General.

New Business

Chairman Celona introduced Peter Chace of the PUCO Staff as the new UTC Coordinator.

Chairman Celona brought a determination by the U.S. Department of Transportation that the Ohio damage prevention enforcement program was determined to be “Adequate”.

The UTC had a question on whether the PUCO intended to assess a safety registration fee in 2019 as allowed under OAC 4901:1-2-09. PUCO Staff responded that they intend to assess this fee. The UTC requested PUCO Staff provide an assessment schedule and information on how the funds for the registration fee are budgeted and reported for the next UTC meeting.

Status Update: L Hampton: Currently 11 additional cases are being investigated.

Next meeting: October 10, 2019 @ 10:00am.

Adjourn