

Underground Technical Committee

Meeting Minutes Friday, October 1st, 2021

- I. Meeting called to order 10:03 AM
- II. Roll Call

Baxter, Celona, Costell, Igel, Jewell, Kelly, Perry, Potnick, Reams, Snyder, Stewart, Ward. Requirements for a quorum met.

III. Guests in attendance

Greg First Conie Construction Company

Kevin Schimming OH811

Lori Wade Columbia Gas of Ohio

- IV. <u>Swearing in of Newly Appointed and/or Re-Appointed Members</u> Introduction of Kevin Baxter, Designer/Developer/Surveyor representative.
- V. <u>Approval of Minutes from August 26, 2021 Meeting</u> Minutes were approved with no objections.
- VI. Cases to be Heard

21-00035 Kinder Morgan

v. Miley Fencing

Alleged violation of R.C. 3781.28(A), failure to contact OH811 before excavating.

Recusals: Celona

Discussion: Reams – did Staff have any contact with the defendant? Staff – no, no response.

Case dates from May, was deferred from the 8/26 meeting.

Violation: Reams – moves to find in violation. Motion passes unanimously.

Penalty: Reams – first violation, recommends training and deferred fine because they are

not responding to the PUCO. \$500 penalty waived if penalty completed within 60

days. Motion passes unanimously.

21-00040 Texas Eastern Transmission v. M&J Logging

Alleged violation of R.C. 3781.28(A), failure to contact OH811 before excavating.

Recusals: Celona, Costell

Discussion: Stewart – same as last case? Kelly – notes they were doing logging, not clear this

meets the excavation definition. Reams – seconds. Ward – moves to find the

defendant not in violation. Motion carries unanimously.

Violation: None

Penalty: N/A

21-00041 Dominion Energy OH v. Austintown Fence

Alleged violation of R.C. 3781.28(A), failure to contact OH811 before excavating.

Recusals: Celona, Costell

Discussion: Stewart – notes the defendant has admitted to the violation. Baxter – the

defendant states in the response they make approximately 600 calls per year. Can we verify. Stewart – we have not done so in the past, it is clear they should be

familiar with the OH811 system.

Violation: Stewart moves to find the defendant in violation. Motion carries unanimously.

Penalty: Stewart – points out this is a first violation. Moves to accept their response as an

acceptable PIP. Motion carries unanimously.

21-00042 Dominion Energy OH v. J S Hardscapes

Alleged violation of R.C. 3781.28(A), failure to contact OH811 before excavating.

Recusals: Celona, Costell

Discussion: Kelly – points out they pleaded no contest, is similar to the last case.

Violation: Igel – moves to find the defendant in violation. Motion carries unanimously.

Penalty: Reams – response shows the company did their research, determined the problem

and took corrective action. Moves to accept response as an acceptable PIP.

Motion carries unanimously.

21-00043 Dominion Energy OH v. Tri-State Tree Service

Alleged violation of R.C. 3781.28(A), failure to contact OH811 before excavating.

Recusals: Celona, Costell

Discussion: Ward – notes the defendant admitted to the response.

Violation: Ward – moves to find the defendant in violation. Motion carries unanimously.

Penalty: Igel – believes this case falls into the same class as the last two. Potnick – moves

to accept their response as an acceptable PIP. Motion carries unanimously.

21-00044 Kinder Morgan

v. Built Rite Buildings

Alleged violation of R.C. 3781.28(A), failure to contact OH811 before excavating.

Recusals: Celona

Discussion: Ward – same as the last case, they admitted to the violation.

Violation: Ward – moves to find the defendant in violation. Costell – noted the excavation

was done on a previous ticket called in more than 10 days previously. Motion

carries unanimously.

Penalty: Reams – did not find anything in the response to show the defendant made an

effort to determine and correct what went wrong. Moves to require training, PIP

and a waive-able penalty. Motion carries unanimously.

21-00045 Kinder Morgan

v. Turbo Excavating

Alleged violation of R.C. 3781.28(A), excavator called in a ticket more than 10 days prior to excavation.

Recusals: Celona

Discussion: Some discussion on whether the work constituted excavation. The information

provided to the UTC doesn't allow for a definitive determination.

Violation: Some discussion on whether to state the UTC can't make a determination based

on the information provided or move to have Staff collect additional information. Stewart - moves to determine the Staff report is incomplete and to defer the case

while Staff collects additional information. Motion carries unanimously.

Penalty: N/A

21-00046 Blue Racer Midstream v. California Palms

Alleged violation of R.C. 3781.28(A), excavator called in a ticket more than 10 days prior to excavation.

Recusals: Costell

Discussion: Reams – unfortunately no requirement for the excavator to call in additional

tickets if they have started an excavation within 10 days

Violation: Reams – moves to find no violation. Motion carries unanimously.

Penalty: N/A

21-00047 Ohio Dept of Transportation v. AT&T

Alleged violation of R.C. 3781.29(A)(1), within 48 hours of receiving notice, each utility shall locate and mark facilities.

Recusals: Costell

Discussion: Kelly – notes the defendant pleaded no contest.

Violation: Kelly – moves to find in violation. Motion carries unanimously.

Penalty: Reams – did not find the defendant's response persuasive, relied on COVID and

lack of employees. Wants to see a revised PIP. Some discussion. Igel – moves

to require a revised PIP from the defendant. Motion carries unanimously.

Note – UTC Member Motzer joined the meeting at this point.

21-00049 Texas Eastern Transmission v. Rich Pekar

Alleged violation of R.C. 3781.28(A), failure to contact OH811 before excavating.

Recusals: Celona

Discussion: Stewart notes the defendant pleads no contest.

Violation: Stewart moves to find the defendant in violation. Motion carries unanimously.

Penalty: Igel – moves to accept the defendant's actions provided in their response as a

valid PIP. Motion carries unanimously.

21-00050 Dominion Energy OH v. Winters Excavating

Alleged violation of R.C. 3781.28(A), failure to contact OH811 before excavating. Staff notes the complainant has requested to withdraw the case.

Recusals: Celona, Costell

Discussion: Complainant wishes to withdraw the case.

Violation: Reams – moves to accept the withdrawal. Motion carries unanimously.

Penalty: N/A

21-00051 Dominion Energy OH v. Blind & Sons

Alleged violation of R.C. 3781.28(A), failure to contact OH811 before excavating.

Recusals: Celona, Costell

Discussion: Igel – notes the defendant pleads no contest and accepts responsibility.

Violation: Igel – moves to find the defendant in violation. Motion carries unanimously.

Penalty: Igel - moves to accept the defendant's actions provided in their response as a valid

PIP. Motion carries unanimously.

21-00052 Dominion Energy OH v. Second Nature Landscaping

Alleged violation of R.C. 3781.28(A), failure to contact OH811 before excavating.

Recusals: Celona, Costell

Discussion: Reams – they did not make a call, hand digging is not exempt in Ohio. Potnick –

noted they also pled no contest.

Violation: Stewart – moves to find the defendant in violation. Motion carries unanimously.

Penalty: Reams – nothing in the response to indicate the defendant understands the

violation. Moves to require a PIP and training, \$500 fine which will be waived if the PIP and training is completed within 60 days. Motion carries unanimously.

21-00053 Dominion Energy OH v. Southside Cement

Alleged violation of R.C. 3781.28(A), failure to contact OH811 before excavating.

Recusals: Celona, Costell

Discussion: Reams – believes this is a violation as sidewalk removal qualifies as excavation.

Violation: Igel – moves to find the defendant in violation. Motion carries unanimously.

Penalty: Reams – notes this is a retired contractor, should we consider this penalty to apply

to the contractor or the individual. Igel – moves to require training with a waiveable \$500 penalty if not completed within 30 days. Some discussion on the

penalty amount and number of days. Motion carries unanimously.

21-00054 Dominion Energy OH v. Catts Construction

Alleged violation of R.C. 3781.28(A), failure to contact OH811 before excavating.

Recusals: Celona, Costell

Discussion: Stewart – notes the defendant pleaded no contest.

Violation: Stewart – moves to find the defendant in violation. Motion carries unanimously.

Penalty: Reams – noted the defendant determined what went wrong and took corrective

action. Moves to accept the response as a valid PIP. Motion carries unanimously.

VII. Status Update

Commission Staff reports there are 14 new cases ready for a decision from the UTC since the finalization of the October 1, 2021 meeting agenda.

VIII. Old Business

Open (PIPs & Education):

20-00017 (Payne Enterprises Inc) - Training & Fine. UTC moves to apply a \$2,500 fine unless required training is completed. Motion carries unanimously.

20-00024 (TBI Lawn Sprinkler) - Training. Staff has been able to contact the defendant who is moving towards completion of the training requirement.

21-00012 (**Micronet Solutions**) - Training not completed; fine notice sent. Reams – moves to apply an additional fine to \$2,500, waive-able if the training is complete. Motion carries unanimously.

21-00013 (Todd Burdette) - Training not completed; fine notice sent. Staff has been able to contact the defendant who is moving towards completion of the training requirement.

21-00020 (Jose Alcala) - Training not completed; fine notice sent. Staff has been able to contact the defendant who is moving towards completion of the training requirement.

21-00024, 21-00028 (Frontier Comm) - PIP w/ 004 Code addressed, due 10/2/21

21-00025 (AT&T) - Update on Status of Screening Process, due 10/2/21

21-00030 (Micon Construction) - Fine, PIP & Education due 11/7/21

21-00032 (Landscape Creations Nursery) - Training & PIP due 11/7/21

21-00033 (BBC Electric) - Training & PIP due 11/7/21

21-00034 (Maintenance Plus Group) - Training & PIP due 11/7/21

21-00037 (Ronnie Milosavljevic) - Verification of Training Meeting due 11/7/21

21-00038 (Washington Electric) - Training & PIP due 11/7/21

21-00039 (Aqua Ohio) - Training & PIP due 10/2/21

Attorney General Show Cause Orders:

20-00004 (Cornerstone Basement) - \$250 fine referred to collections, pending.

20-00011 (John Collins) – referral pending case to be opened before the PUCO.

20-00015 (Cornerstone Basement) - \$1,000 fine referred to collections, pending.

21-00001 (Cornerstone Basement) - \$2,500 fine referred to collections, pending.

IX. New Business

Overview of 5-Year Rule Review Process by Legal Department. PUCO hosted an open public meeting to discuss any proposed changes to the portions of the Ohio

Administrative Code covering the function of the UTC and received no comments. PUCO will likely recommend no changes for the five-year rule revision.

- X. The next meeting of the UTC will be held Thursday, November 4th, 2021 at 10:00 AM. This meeting will be held virtually through WebEx.
- XI. Adjourn at 11:37 PM.