

OUDDPC MINUTES

APRIL 30, 2019

1:00-3:00PM

George J. Igel Company

ATTENDEES: See Lists

AGENDA:

- I. Welcome
Joe Igel, Chair, called the meeting to order at 1:05PM and thanked everyone for attending. Introductions of in-person and phone attendees.
- II. Administrative
Emergency protocol, restrooms, etc.
- III. Approval of September 13, 2018, Minutes
- IV. Subcommittees and Discussion Groups Defined. Joe identified subcommittees as working on issues that “may be “lower hanging fruit” and “could lead to proposed revisions in current legislative session,” versus discussion groups addressing issues with relevance that may be visited in future legislative efforts.

Agreement that minutes from meetings of subcommittees and discussion groups should be posted on the website, including date/time for next meetings. Guests interested in participating should send an email to the respective groups’ leaders and cc: Alice Miller.

- V. Subcommittee Reports:

A. 1. Large Project / Scope of Ticket – Kevin Schimming Reporting

Subcommittee began efforts by identifying why Large Projects are important to address. They typically are highly complex and require significant collaboration, human and financial resources. In cases where these projects are not efficiently and effectively planned, contractors may experience more downtime and delays, utilities may be damaged and public and safety may be at risk.

- Limited utilization of large project process: 7.8 million tickets since 2013 and only 7,000 large projects
- Uneven or selective participation with project partners not always attending meetings or abiding by schedules

- Lack of definition or standardized best practices leads to confusion
- Currently, only excavators can designate the project as “large,” when they may not realize the complexity of underground utility infrastructure
- Marking Schedules are inconsistent – Who? What? When? Where are the schedules maintained? What happens when parties can’t agree or breach an established schedule?
- What are “reasonable expectations” when schedules change
- There is a need for significant additional awareness and education regarding the large project option and process

Subcommittee focused on:

- Developing a consistent and reasonable definition
- Proposing that utility owners can also designate
- Requiring full participation by all parties
- Adopting a consistent process for creating and maintain schedules
 - OHIO811 open to looking at the facilitation of schedule storage
- Whatever happens – develop and share best practices of what works and what doesn’t through enhanced education

Next Steps:

- Feedback from full coalition
- Framework – language and bullet points on where to go next

Roger: Great work by the committee thus far. A lot of discussion is needed in the development of a common definition. As noted, “Large” would be more accurately described as “Complex.” It’s not so much length or acreage of project as availability of streets and markings, quantity and complexity of existing underground infrastructure, number of players and moving parts. Establish parameters: if a project meets those parameters, it is designated large or complex, so everyone is clear and has consistent understanding and expectations.

Mark: Agrees. The definition and parameters are necessary to eliminate ambiguity. What do we need in there? Establish benchmarks during meetings for moving forward.

Roger: Similar to the adoption of the marking standards. Flexibility to review and alter without requiring legislative revisions of Ohio Revised Code. Best practices and parameters can be modified.

Kevin/Mark: Quantify measure to determine “large project” designation. Less about size and more about resource intensity. “What are the resources that are necessary on a given project to prevent damage and promote safety?”

Al: Raised concerns regarding “sticking to the agenda,” so that all subcommittees and groups could present their updates, followed by discussion.

Mary: Igel has been experimenting with several utilities, locators and contractors, trying to determine how this process will work. May vary from project to project.

Roger: Really two phases: 1. Developing language for proposed legislative update including a common definition. 2. Developing best practices and a process for review and updates.

Joe: Define “Complex” - example of project where crews couldn’t move from one part of project site to another. Let’s isolate the common characteristics.

Mark: Include timeframe of project...likely duration.

A. 2. Size / Scope of Ticket – Kevin Schimming Reporting

ORC does not establish limits on size and scope. Utility owners forced into non-compliance when an excavator calls in a single ticket for a 10 mile project. OHIO811 can make suggestions, but has no authority to mandate multiple tickets. Changes in vendor technology impact how much area can be covered in a given day.

Proposed solutions must be flexible and agile. Maybe there should be authority granted in ORC for OHIO811 to limit the size and scope of a ticket. There is also interconnection with the “Ticket Life” discussion group because the topics are so intertwined. Many companies believe or have adopted 8, 10, 21 or 30 day ticket lives. Shouldn’t it be standardized?

Roger – There is confusion, partially due to historic communication practices from many years ago. There are only two ways a ticket currently expires:

1. The project is not initiated within ten days of the call/online request for a ticket
2. If the marks are destroyed and no longer legible

Jennifer – Cited court precedents upholding this expiration

B. Third Party Accountability – Jennifer Reams Reporting

Holding third parties accountable isn't consistent with the practices of other states
UTC – Damage rates are declining. Based upon discussion, subcommittee members
unanimously recommended not pursuing.

Roger – So is this a topic we continue to pursue or do we put it to bed?

Joe – Recommended leaving open-ended so that anyone not in attendance had the
opportunity to address upon reading the minutes. Otherwise, take the topic out of
discussion.

C. Exemptions – Darren Owens Reporting

While there are multiple exemptions, the primary focus is to concentrate on the specific
entity vs. activity exemption for government entities excavating less than 12" in the
right-of-way.

Need feedback, build list of activities to be exempted and gain support of AMP, Public
Works Assoc., Ohio Municipal Assoc., Ohio Township Assoc., County Engineers, etc.

Roger: While PHMSA would ideally prefer the elimination of all exemptions for public
safety and utility protection, it is the entity exemption which prohibits access to two
annual grant programs of \$100,000 and \$50,000 respectively. These grants could be
used to pay for UTC process, education, etc.

The concept would be to replace the entity exemption with a list of activities to be
exempted, which is done in many states. A list has been developed in prior years which
can be shared. Any proposals must/will be reviewed and approved by the coalition
before progressing to the development of proposed legislative language.

VI. Discussion Group Reports:

D. Training – Al Tonetti Reporting

Our initial conversation focused on the intent of the training requirements as outlined
ORC 3781.261. Throughout the discussion we agreed that the primary objective is to
improve safety through training by modifications to the ORC language.

Existing ORC language: "3781.261 Protection of underground utility facilities training.

"An excavator, contractor, or utility that utilizes a protection service shall obtain training
in the protection of underground utility facilities. An excavator, contractor, or utility
shall be deemed to have obtained that training if the excavator, contractor, or utility is a
member of a protection service or a statewide association representing excavators,

contractors, or utilities and the service or association provides that training. An excavator, contractor, or utility also may obtain the training from such a service or association without becoming a member.”

The group identified flaws in the current language, including the lack of defined training content, challenges to enforcement, and applicability to all relevant groups. The group agreed that membership alone in a protection service or a statewide association in no way guarantees that all employees of those member organizations have taken advantage of educational offerings or received adequate training. We also recognized that none of the training meets any acceptable standards of delivery (including testing), content, nor specifies the frequency of training.

Current language does not include locators (only excavators, contractors, and utilities). It was also noted that while locators have established internal training programs in order to meet their performance metrics and fulfill contractual obligations, many municipalities may assign employees to part-time locating in addition to their regular responsibilities without providing full, if any training.

Rather than identifying specific needs and multiple standards and requirements of each industry group or function, the participants decided to focus on general applicability. As Joe Igel stated in our first discussion, “To get too specific in training expectations and individual requirements and standards would require constant evolution of the law to keep pace with new methods, practices and technologies.” Thus, during the first two conference calls we kept our discussions general and focused on how we might revise existing ORC language to address its flaws.

Al and Roger discussed the 4iQ online learning management solution and certification program utilized by Dig Safely New York for possible referral and consideration by the OHIO811 Board. Dig Safely New York’s online certification program in safe digging best practices is an interactive course.

Roger – Training requires some minimum standards and flexibility to make changes similar to the marking standards. New York uses a module approach delivered through online 4iQ learning, with various entities and associations providing components of the overall education. Running roughly 60-70 minutes per module, these programs allow NY excavators an opportunity to be certified as knowledgeable in a given subject. Parties pay \$30 for a 3-year certification. Initially launched as a voluntary program, and has now been adopted in New York law.

Mark - Raised concern with creating new bureaucracies. Who would regulate? OCA has established training programs for its members as do most associations and companies. As a member of the UTC, Mark doesn’t see the cases coming before the panel as resulting from a lack of training, but rather as violations of basic, fundamental responsibilities under ORC.

Roger - Need to define the goal of training requirement. Define language and establish standards, while comparing our programs to those offered / required by other states. Keeping in mind the number of contractors from out-of-state who are working on projects continue to grow.

E. Abandoned Lines – Chris Langford Reporting

The discussion group had spirited conversation regarding the variety of practices that exist regarding the practice of addressing abandoned lines. At least 16 states have some language in place, but there is little uniformity.

Central question is “What can we do in proposed language of legislation to generate fewer strikes and address safety concerns with abandoned lines?” In creating points for resolution:

- Should there be a standardized process for decommissioning lines?
- How should tracking be completed?
- Who maintains ownership of abandoned lines?

Next steps:

- Defining “active” vs. “passive” vs. “inactive” vs. “abandoned” lines
- Determining when ownership is terminated
- What practices, locations and mapping should be maintained and by whom

Roger – There are ongoing parallel efforts at a national level in terms of how to handle ownership.

F. Ticket Life – Les Schell Reporting

As previously mentioned during the Large Project, Size and Scope subcommittee, the team’s focus has been to stress the importance of maintaining marks to protect public safe and utility infrastructure.

Companies represented by members of the team, and others whom they surveyed and engaged, have established their own “life of ticket” by establishing time requirements for renewing tickets. Lengths vary from company to company (8, 10, 15, 21 and 30 days). Contractors from outside OHIO may have established their own frequency timelines in alignment with other states in which they operate. Duration remains an issue.

Discussion about whether adding Ticket Life into the Large Project, Size and Scope Subcommittee would significantly alter the effort to use subcommittees to address “low hanging fruit” legislative changes. Ultimately, it is the decision of the OUDPC

representation, to determine legislative proposals to be followed by debate and legislative language development.

Brent – Let’s go through the process and see where we land, continuing to focus our efforts on what’s best for the safety of the citizens of Ohio.

G. 48 Hour Ticket Life –

Tasked with consideration of a change in Ohio Revised Code, establishing a “true 48 hours,” whereas utilities could have two full days (excluding weekends and holidays), commencing at midnight after a ticket request is processed by OHIO811. Members of the committee agreed that such a change could lead to timelier locates, and therefore, greater safety.

Contractors raised concerns with lost potential production time due to an additional waiting period. The two are not easily reconciled.

Didn't capture notes effectively as I was moving the microphone from speaker to speaker.

Next OUDPC Meeting on Wednesday, September 4, 2019, from 1:00-3:00PM.

Meeting adjourned.