

UDPC Exemptions Subcommittee Meeting

7/14/2025

1:00PM

Kevin Campbell, Jason Broyles, Frank Riegler, Justin Freudeman, Jim Mander, Shawn Hudgel, Jim Collins, Scott Mergler, Dave Coniglio, Greg First, Jim McClelland, Blake Ross, Debbie Harris, John Kelly, Michael Lambdin, Bojan Cicic, Brian Hickman, Jon Dorsey, Les Schell, Stephanie Kromer, Audrey Bentz, David Koren, Kenny Walker, Casey Fritz, Lori Wade, Jimmy Stewart, Jason Kershner, Collin Crigger, Alex Coorey, Deron Large, Stephen Neilson,

Jim Collins opened the meeting at 1:00pm, started with a review of the previous meetings' minutes.

Jim Collins let everyone know that the meeting would be recorded for the purpose of meeting minutes. No one voiced an objection.

Jim Wooten made a motion to accept the minutes as written, Jim Mander seconded, minutes passed unanimously.

Jim Collins reviewed the language Jason sent to the group on Friday, Jim Collins read aloud to everyone.

Open for comments on proposed language.

Jim Mander- The point of this is for locating, know that it says outside the boundaries of a road right of way, concerned we are clear enough to show that this could be on private property. Does everyone think it covers that portion well enough?

Seamus Mulligan- thinks that it is for everywhere, not just road right of way.

Jim Mander- if everyone is thinking the same way, then I am fine with that.

Dave Coniglio- Reading through the proposed stuff, wants to go back to what he said the last meeting, started as just for tracer wires and has evolved into other things. Originally for tracer wires that were broken, has evolved into something that wasn't the original intent.

Seamus Mulligan- Number 1 for me is still what it is intended for, if that tracer is cut, or someone has mulched and buried the wire. Have the ability to uncover a valve box or around the riser to uncover a tracer wire.

Dave Coniglio- Agrees that number 1 still holds true to the intent. But has some questions with number 2.

Seamus Mulligan- Maybe needs amended when it is clear there are no other utilities that are visible.

Jason Broyles- Making that recommendation for the first portion of language or the second portion?

Seamus Mulligan- Believes it will probably have to be for both.

Jason Broyles- If you go out to locate a request and have a situation where the gas riser is right by the phone terminal. Are they still conducting the locating activities today?

Seamus Mulligan- They are still going to dig, but if they hit another utility while trying to find that tracer, they are going to be responsible for that damaged utility. If there is an exemption, you won't be liable if something was to get hit.

Jim Wooten- I believe that we are liable with or without the exemption. If we hit another utility during that process, we would still be liable.

Seamus Mulligan- As of now yes you are liable

Jim Wooten- All it does is not allow a complaint to be filed with the UTC, PUCO, but civilly you can still be held liable.

Deron Large- Why wouldn't there be a locate already down?

Jim Mandera- If the gas locator got there before the communications locator got there.

Chriss Russ- Going to state that this is for a locator, they just aren't required to call a ticket it by law but does not alleviate civil liability.

Jason Broyles- if no other comments on the first area of proposed language, can do a vote of majority of those present to see if we want to move this to the full coalition on Thursday.

Jim Wooten made a motion on number one, Chris Russ seconded. The motion passed unanimously.

Language will be moved to the full coalition on Thursday.

Jim Collins, moving on to the second part of proposed language, opening up for discussion.

Seamus Mulligan- Does include a telephone pole or utility pole correct?

Jim Collins Yes

Jim Mander- This is only for in the right of way correct?

Jason Broyles- Correct

Seamus Mulligan- Why is this just for road right of way? That is the most congested area. From an electric utility standpoint, put poles right on the right of way line, half the pole you could dig on, and the other half you would have to call in a ticket for. In favor of a slight language change of maybe 10' of the road right of way.

Jason Broyles- Seamus is correct, current HB 227 language for exemptions, they are all for in the road right of way.

Seamus Mulligan- Does the existing language about the pole inspection have something in there about still having to call in if there is a drop coming down the pole?

Jason Broyles- that is correct, from 90 degrees.

Bojan Cicic- Could we incorporate the last sentence in number one and put it into the second proposed language.

Jason Broyles- Yes, and I believe that is what Seamus is alluding to.

Jason Kershner- the 10 ft from a horizontal perspective, it would just be for horizontal, not vertical.

Jim Collins added the last sentence from number 1 to the end of number two as well. "This exception shall apply irrespective of whether the activity occurs within or outside the boundaries of a road right of way"

Dave Coniglio- This is not just about the tracer wire now, this is anything that is in the 12-inch by 12-inch box, correct?

Jim Collins, correct.

Jim Mander- Is this an exception or an exemption.

Jim Collins- This is an exemption

Jason Broyles- need to do a language change in 1 and 2, because it says exception currently.

Seamus Mulligan- question about utility structure, telephone structures that are 10x10. We are not talking about 12x12. Looking more towards a utility pole?

Jason Broyles- Telephone poles, peds, hand holes.

Seamus Mulligan- It would not be a building then right? It would not be a utility structure.

Jason Broyles- No I would not consider it as such

Seamus Mulligan- Just want to make sure we are all on the same page.

Shawn Hudgel, the 12 inches takes away the issue with a utility building

Jason Broyles- say a wastewater treatment plant, would the pump house be considered a utility structure. Don't want it to be twisted to let someone dig around the building.

Seamus, Mulligan- Yes, if they can dig around a building then that's going to be too much.

Lori Wade- Do we need to define it further? There is a lot of different verbiage around utility structures. Didn't even think about regulator buildings, water treatment plants etc... Should have additional language on what structures are.

Jason Broyles- Can we define this better with the language we have now currently? Or do we need to go back and define it in 3781.25?

Seamus Mulligan- I think we are all on the same page with this, but we just need to define it better.

Jim Wooten- Agrees with Seamus, the 12" box is the area that can be dug, not the size of the structure.

Dreon Large- AT&T led the charge last year in Kentucky to get something like this passed there. Maybe we can go there to get some ideas for language and get some best practices ideas there.

Jason Broyles- what I found in Kentucky after a quick search, it only speaks to connection or disconnection of communication lines. Does not apply to any other utility.

Deron Large- remembered that being led by AT&T, so it could just be that.

Jim Collins- Pulled up Kentucky law, showed the group the exact language that was passed last year. More of a very specific thing.

Jason Kershner- could we make it not communication specific?

Bojan Cicic- Wouldn't that be utility structure?

Scott Mergler- Tried to get away from that so that way all the utility groups could take advantage of this.

Jason Broyles- that is correct, and it ties in with the contractor basis as well. A company that does utility abandonments, installs, they can go out and do minimal soft excavation around the meter or curb stop. This needs to not be able to be twisted to being an exemption for just a certain entity.

Jason Kershner- Wanted to suggest something more general and not specific to a specific entity.

Scott Mergler- Kentucky 811 reached out to AT&T to write the language which is part of why it reads the way it reads.

Jim Mandera- This goes back to a comment from a meeting or two ago, maybe alleviate concern on number 2, around houses or larger facilities. If we change this exemption from 12" to 6", does it help alleviate the concern. Would it still give the fiber companies the ability to meet their needs, does that work?

Scott Mergler- I call in my locate, they come out and there is a gas line within 18" of the pedestal, still going to be digging with hand tools and be digging carefully. If you are digging around your facilities you are going to be digging the same way regardless, which would be very carefully.

Bojan Cicic- Thinks the 12" should stay as it is.

John Kelly- Going back to the size issue with the utility structure. Could we limit it to 5x5, or 10x10 in order to eliminate larger structures?

Jim Wooten- Could we just add in there that it doesn't include building.

Shawn Hudgel- What if we change structure to asset?

Bojan Cicic- Agrees that asset may be better?

Jim Wooten- Wouldn't a building be an asset?

Seamus Mulligan- A building could be considered an asset, but the word structure brings a building into the discussion.

Jim Collins- could change it to asset and in parentheses put not including buildings.

Jim Mandera- What about large vaults?

Jim Wooten- Is it an above ground vault?

Jim Mandera- No

Seamus Mulligan- would have to enter a below ground vault from above

Jim Wooten- But you would only be able to dig 12” around the above ground portion of the structure.

Lori Wade- Could say a roofed building?

Seamus Mulligan- Could provide an example, i.e. such as a pedestal.

Jim Collins- Any other comments on number two?

Dominic Belser- Maybe the word enclosure would be better?

Seamus Mulligan- Likes enclosure better, I don't think of a building in that instance.

Jim Collins- Would we use a utility enclosure?

Seamus Mulligan- Except now a utility pole wouldn't be included?

Jason Broyles- Does the pole need to be included since the poles already have an exemption? Though the current one is only in the road right of way.

Jim Wooten- yes and because of that very reason.

Jim Collins- Anyone make a motion to put this language to the full OUDPC Thursday?

Shawn Hudgel motioned, Michael Lambdin seconded. Motion carried unanimously to present it to the full coalition on Thursday.

Jason Broyles- Turning over to Dave Koren

Jason Kershner- Addressed it with the discussion we had in the conversation about hand digging. So, thinks we are good, and what Charter wanted to discuss is covered.

Jim Collins- Anything else to discuss?

Mike Wilson- Back to the conversation we just had, existing language about pole inspections, riser coming down the pole, must be 90 degrees to dig without a ticket. What stops someone from using this language to just dig around 12” and not adhere to the language stating they can't do pole inspections within 90 degrees of a riser.

Jim Mander- Agree and it needs addressed. This could easily be used to get around that.

Jason Broyles- 3781.25(l) excavation excludes all the activities in the public right of way, utility wood pole inspection not more than 12” working on the clear side of poles not within 90 degrees of any risers.... Utility wood poles are usually put right on the right of way lines. They will essentially have two different exemptions to dig with hand tools.

Seamus Mulligan- Was ok with the 90 degrees away but is confused with why it was only in the road right of way since it is the most congested.

Jason Broyles- throwing this questions out, with something of this nature, what would be the best course of action to proceed, going to have two different things written in the law, and lead to damages from people trying to twist what the language says, should we go back and strike the language that is currently proposed in HB 227.

Deron Large- no, we have put too much work into that, and it would be a step backwards.

Jason Broyles- Fair point, just wanted to see what the best way would be to move forward

Deron Large- points out to work in conjunction with the language that is already there.

Agree with Seamus, in a field why would we not be able to do the same thing that we can in a road right of way. Don't want two laws that are in conflict. It needs to be in conjunction with the current law. Really would hurt ourselves if we do not go forward with the language in 227.

Seamus Mulligan- If the utility asset is a utility pole with other structures, it can only take place outside of 90 degrees.

Jason Broyles- so if there is an obvious utility there, then you have to do your work at least 90 degrees from that known utility.

Mike Burroughs- Think it would be in our best interest to include what is already in place to have some kind of reference. Can get convoluted and twisted the further we get down the line. The more we can reference the better we will be.

Jason Broyles- Bottom of number two, personal recommendation, add "this excavation must take place working on the clear side of the utility asset, greater than 90 degrees from any other utility asset. What do you all think?

Bojan Cicic- What does it mean by clear side?

Jason Broyles- Visually clear, not visual evidence of a facility.

Seamus Mulligan- Would make the "road right of way" be the last sentence.

Jim Mandera- Struggling with the term "clear side". Maybe utility free?

Bojan Cicic- Maybe visually clear?

Jason Broyles- wants to use consistent language that we have in the law already

Scott Mergler- Thinks we should take the utility poles out of the language as to not create confusion.

Bojan Cicic- wants clarification on what the 90 degrees means.

Deron Large, if you are looking at a pole, and a drop comes down at the 0-degree mark, and you want to dig to check the pole for rot, you have to go to the 3 o'clock position,

Seamus Mulligan- So you can dig on have the pole, staying 90 degrees away from the drop/riser. If a line comes down at 12 o'clock, you can dig at 3 o'clock, 6 o'clock, and 9 o'clock.

Jim Wooten- As it reads, you can only dig on half of the pole, which is the half of the pole that is away from the drop/riser.

Jim Wooten- Maybe the piece we are missing is the other language is only for utility wood pole inspection.

Jason Broyles- It can be a specific exemption for a work type, just not for an entity.

Jim Wooten- The exemption for utility poles is only for pole inspections, and that's it.

Jim Collins- Previous language that we had for number two that we voted on, do we want to go ahead and bring it up Thursday? How do we want to proceed?

Jim Wooten- Changed quite a bit.

Jason Broyles- Would be leery to bring this language to the coalition without voting on it again. Can still discuss it at the meeting, and maybe get some more input, and then move forward from there.

Jim Collins- Language change is highlighted in red, that is the only change right?

Jason Broyles- Yes.

Deron Large- Does anyone have any heartburn or issues? Can we do a quick vote now?

Jason Broyles- it's up to the group, if someone makes a motion and seconded, some folks have had to drop off, but it is just for bringing the language to the coalition. Will still be time to have comments heard if so.

Jim Wooten- If we take this language to the full coalition, we could ask to take a vote at that time and go to the review period then correct?

Jason Broyles- That is correct.

Jim Collins- Anyone want to make a motion to bring the language to the coalition?

Seamus Mulligan made a motion, Jim Wooten seconded. The motion passed unanimously.

Jim Collins- Will email Jason Broyles the amended language.

Jim Collins adjourned the meeting at 2:07PM