

UTC Review Subcommittee

6/30/2026

10:00am

Attendance: Kevin Campbell, Jason Broyles, Bryon Bedel, Dave Coniglio, Davy Myers, Joseph Dragovich, Matt Hines, Melvin Henson, Scott Mergler, Russell Johnson, Marc Armstrong, Deron Large, Frank Riegler, Lori Wade, Jimmy Stewart, Lawrence Hampton, Garry Lee, Justin Freudeman, Deborah Harris, Wilson/Keaton/Ned, Jim Collins, Mary Logan So, James Mandera, Greg First, Kara Arnold, Mike Lawson, Collin Crigger, Brittany Colvin, Cramblett/William/Matt, Blake Ross, Chris Russ, Mike Muzychenco, Kyle Cross, Sean Travis, Gregory Vergamini, Brian Holden, Pat Ginnetti, Stephen Nielson, Matt Hines, James Finucan, Kyle Mangione, David Koren, Jana Bruen, Frank Ward, Fletch, Alex Coorey, Wendi Snyder, Jim Wooten, Liz Pyles, James Finucan,

Dave Coniglio opened the meeting at 10:01am

Dave Coniglio- Think things are going well with the UTC currently, a lot more people are reporting things now. Part of this committee is to figure out if there is anything that needs adjusted, or any low hanging fruit. Want to figure out what we would like to do as a committee.

Marc Armstrong- I don't think there are glaring issues, but something that needs to be looked at. Maybe a few adjustments. The volume of calls and volume of work that the committee must do now has grown. Just looking at potential issues that we can address. Have identified a few areas for discussion.

- 1.) Term limits, has anyone heard from anyone that thinks there should be more turnover? Anyone have any thoughts?

James Finucan- I appreciate there is some conversation around term limits, but also want to bring up that career paths change, if there is an individual on the UTC who had a seat from one role, and their role changes, then we need to see what that would look like for the person sitting in that seat. Would there be a 90 period to get that seat back, or if they are out of the industry, they should they have to vacate that seat.

Dave Coniglio- We did discuss that, there is a lot of experience on the committee, so if they term limit out, it may not be a way we want to go. Now if they retire or are no longer in the industry, that's different. They need to be involved or employed in the industry.

Frank Ward- I served two terms on the UTC, I think Lawrence will back me up, the way this has worked, an organization nominates their candidate, then the candidate is appointed by the government. Then that seat belongs to the individual, not the company. Even folks who had retired still had a wealth of experience.

Dave Coniglio- Thank you Frank, that goes hand in hand with what we are talking about. Lots of experience on the committee, and I do agree, if you are retired and no longer in the industry, that would be something to look at.

Christina Polesovsky- I would just say that this UTC does a lot of work for free, I do not want us to eliminate people when there is already a process in place when an association can recommend someone. The appointments don't always happen on time as it is, I just want to make sure we don't do anything that hinders the group's ability to function. People who are retired may have more time to do this type of work than others who are still working. Still need to be knowledgeable.

Dave Coniglio- Definitely not my goal to make anything more difficult, I think the goal is to find some low hanging fruit for some tweaks that need made, but things do seem to be working.

Marc Armstrong- It's on the industry, if they feel the person is knowledgeable and engaged, then it is a decision for the appointing authority and be regulated by that industry.

Scott Mergler- I just want to piggyback, let everyone know, it is not a quick process. It took several months after Frank Ward left. I replaced Josh Motzer, it took 7 months to replace him. Telecom was without a rep for 7 months because of that.

Dave Coniglio- Any idea what the hold up was? One thing we could zero in on? On our end, it takes 60-90 days to get the appointment letter.

Scott Mergler- Several things, once I got the paperwork in, it was a hurry up and wait, must do a background check, interview you, then once it gets to the governor's desk, you have to wait for him to sign it. I know for the at-large seat for Roger, it was the same way and had to make several calls. He had to wait roughly 8 months.

James Mander- Good conversation, want to throw out a couple of thoughts. Regarding the rules for recusal, I have not personally sat on the UTC, but I have heard that if someone must recuse themselves because they are involved, they are not allowed to speak and not allowed to vote. I think we need to look at not being able to speak. For example, if someone on the UTC has a lot of experience in locating, and the case needs someone who has that experience, their voice needs to be heard. If you are an expert in your field and can educate the masses, then that should be allowed. Something else that we need to look at is the

definition of habitual offender as well. I think part of that definition should be failure rates. For example, using AT&T as an example as the biggest generator of one call tickets in the state. If you generate a million one calls, and you have a 99% success rate, should you still be labeled as a habitual offender, as opposed to a smaller company who has a high failure rate.

Mary Logan So- (Chat)- Who provides those metrics?

Chrstina Polesovsky- (Chat) PUCO? It's a definition in the ORC

Dave Coniglio- I agree with what you are saying, and it says if there is a conflict of interest and declare it and recuse themselves. 4913.152, conversation with knowledgeable persons, so it sort of contradicts itself. I would like to hear from people who serve on the UTC and get their take. The other part of it, with the definition and facts to consider, those things you talked about should already be taken into consideration. Volume or work vs how many times there is a compliance failure. Curious what the process is now to label someone a habitual offender.

Marc Armstrong- I think it is a good point, having discussion from another committee member who has to recuse would still have value. I think the concern is trying to steer the committee a certain way. Talking about habitual offenders, I think of a batting average. How well are you marking/excavating. The more active companies will have a higher amount of failures.

Jason Broyles- Mary Logan So has some good stuff in the chat box. Want to reach out and get comments from the PUCO if we go deeper into the conversation about how we are defining a habitual offender.

Frank Ward- I do want to answer some of Dave's questions. I have been on both sides of this, the company I worked for was considered a habitual non offender, if they come to the amount of evidence that the offender, they will table things to make sure they have all the evidence they need to make a better judgement, and will table things until they get the information that they need. They will call you back in if you have to give an answer to a question if you are recused, then have to leave again.

Scott Mergler- I've been on both sides of it as well, couple key points. One, the information Lawrence and his team get is crucial for making a decision. It can take hours if not days to get some of the information because people will file without all the information. Can't turn it away because we don't have all the information, and supporting the PUCO needs to be a very important role. Trying to convince a panel of people who are experts in their area, it is hard to do on a piece of paper. The process can be a little rough, but just for a committee member, used to meet quarterly and have 30 cases, we have over a hundred at the

moment, and takes a lot of time to go through all the cases. On the recusal part, with AT&T, I have to recuse myself sometimes because our cases are similar. I am ok sitting away with some but do have times where I would like to add to it.

Brian Hickman- Thinking about this, if I recall, back in 2015 when we looked at this language, the intent was one, wanted the process to be above board, so if your company has something in front of the UTC, then it is a conflict and don't want to be a part of the voting process. You can make the argument that everyone else is representing their industry as a whole. If it is a complaint on a gas pipeline, then the rep from a gas pipeline would be the most knowledgeable in that arena. Should still be able to add your expertise to the committee without voting.

Dave Coniglio- I do feel like there is the ability for the committee to communicate with people who have knowledge of the compliance failure. Maybe it is a legal opinion that we need to get since it is a little confusing. I get the voting part for certain, but the communication thing is a little confusing. Or maybe we need to add something to clarify.

Brian Hickman- I think 30,000 ft view, we were trying to marry it to the Ohio house/Ohio senate recusal. It's on the individual to recuse themselves, if they have knowledge they can talk about it, but can't impact the outcome.

James Mander- with what Scott is saying, the information that needs to be collected and the PUCO accepting or rejecting, and would like to hear your input Scott, do we need to look at expanding the information needed to file a complaint, so if they try to file a complaint and information is missing, then it gets thrown out. I think going through the process of having a definitive form or collecting information and standardizing it will help the UTC process as well. If it is inconsistent, then it is a lot more challenging. Standardized form or direction can help the review side of things as well.

Scott Mergler- I know it is getting better, Lawrence can you speak to this more?

Joseph Dragovich- Our complaint form is on our website. There are required fields that have a red asterisk, in terms of the process, they fill out the form, and then we have 2 folks who takes the case, reviews it, if it is a valid complaint, then we notify the parties involved. We are looking at updating the forms we are using, but the case load has hindered that. They ticket number piece, some complaints come without a ticket number. If we have a homeowner or someone less familiar, we don't want to turn them away, and we will work with smaller organizations and homeowners to get them through the process. If we don't have the most recent information, we may miss some things.

Jason Broyles- Everyone needs to keep in mind that there are a lot of complaints for non-compliance from someone out excavating without a ticket, so there is no tickets number to be provided.

Joseph Dragovich- Absolutely, and case volume wise, 2024- 5 cases. 2025-279 cases, 2026- over 500 cases. There is a lot of information, and it is a lot of work since the process is being used more heavily.

Frank Ward- Just wanted to speak on not being able to give testimony, I know I have sat and listened to deliberation, there are plenty of times I wanted to speak up to correct misinformation. So, I would like to see having the ability to still speak but not vote. Should be able to ask the expert and not have them recused.

Melvin Henson- I think there is a difference between recusing yourself to vote and answer a questions from committee members. Maybe not specifics, but there is value on asking what the processes are. I think that it does allow for that. I don't know that I am interested in term limits as much as if someone retires, then they can finish their term, then get them replaced with someone in the industry.

Jana Bruen- I had a number of things, with regard to no ticket, ticket requirement thing, can we have a box asking if there was a ticket submitted or not? Could be an easy update. Also, the system needs to automatically send the person submitting that the information was received and logged in. I submitted a couple, and it never got into the system. So, if something could be automatically assigned. And a number to call if that is not received. As excavation goes up, should there be more people on the committee since the volume has increased, and are required to attend at least half the meetings? That is a lot of information for someone to go through and they already have their day-to-day job, so spreading it around would be good. And once someone retires, they should finish out their term and sign off, they could be so far away at a certain point that they may not be able to provide the most relevant information.

Scott Mergler- Lawrence has always been a very helpful resource, he will be there to help and make sure things are taken care of. In regard to adding people, struggle to get a quorum if you have many recusals, so more people may actually make it harder to get a quorum.

Christina Polesovsky- Did we discuss alternatives with this group to help with recusals specifically back in 2015. I don't remember if that is something we discussed, but it might be a good option, so we have the expertise that we need and get a quorum, have people on standby since there is more work to be done.

Frank Ward- I think the situation with having alternates, but because it is an appointment, they would have to go through the whole process again to have an alternate.

James Mandera- On what Scott said, with several no shows, 17 people on there, if 6 or 7 don't show, and you don't have a quorum, are the cases not reviewed or settled?

Scott Mergler- yes that is correct.

James Mandera- What if we change the language around what the definition of a quorum is? The show must go on, and we can talk about other language about having to participate, but would tweaking the quorum language add value? With the volume going up, and it is challenging to get everyone to show up, we may need to take a look at that.

Dave Coniglio- Is it a consistent problem?

Scott Mergler- We have not had to cancel a meeting because we did not have a quorum. Most of the time, 2-3 people aren't there, and then 2-3 have to recuse, so it gets close.

Frank Ward- Different representation there, I think maybe once in 8 years we had to cancel a meeting because of not having enough people.

Lawrence Hampton- It's been close, but we have always been able to have a quorum. And there has to be a contractor as part of the vote as well.

Jason Broyles- One topic we would like to have considered from OHIO811, dealing with the training that a lot of the non-compliers have to take. Getting funding through the PUCO through the annual collection of \$50 per year. OHIO811 gets used for a lot of the training, and the cost is being absorbed mainly through our membership. Would like to make it a one stop shop at the training so we know the messaging is consistent.

Dave Coniglio- The money that is collected, and the fine money is for the grants. Could the fine money be used to give grants to OHIO811.

Jaime Gillen- Last year, it was the first time that the grant funds were made available. OHIO811 did get some grant money, but it is not exclusively for OHIO811. I know we had to specify certain uses. Just wanted to clarify that the grant money doesn't always go to us, and it is not guaranteed.

Mary Logan So- An increase in the penalties listed in the ORC needs increased, and a way to adjust those without having to go through a law change if we feel like those fines and penalties need to be adjusted. It's not driving change and think it needs to be addressed.

Christina Polesvosky- I would just say, I understand the frustration making sure that things are fresh, I feel my lobbyist colleagues would not be happy for things to just increase over time, but if it needs to increase we could look at it in this process.

Mary Logan So- The difference between fines and penalties here as opposed to OSHA fines, its minimal.

Christina Polesovksy- We should be very specific with that and this all passed in 2015, so it is 11 years old.

Jason Broyles- Liaison team has heard that we build possible UTC fines and penalties into our bid work, pay what we need to pay, and keep on moving. Losing more money trying to be safe.

Mary Logan So- If we want to protect people, we need to drive a behavior change.

Jason Broyles- Absolutely, just wanted to give some insight on the industry.

Joseph Dragovich- The grants are all the penalty money that is collected. Will be more money there with the case load ramping up. Don't know the timeframe yet.

Dave Coniglio- It is 11 o'clock, lots to discuss. Need to talk about recusal language, clarification on 3781.341, discussion around minimum information, would like to talk with the PUCO before moving too far forward with that to see what can get fixed before discussing that, the OHIO811 training, and the fines and penalties amount. Did I miss anything.

Jason Broyles- only other thing was term limits, which could be more along the lines of retirements and job changes. Making sure the seat you hold is in the industry group you are in at the time. Conversations around the process of replacing a rep, and don't want to go to the legislature always asking to replace someone. Lots of job movement and representation of different parts of the industry.

James Mandera- I saw Christina looked at mandatory report and put a comment in the chat as well.

Christina Polesovsky- Basically on what we are collecting on the intake.

Jason Broyles- Agree with that but want to look closer at that with the PUCO, since they can request that information from OHIO811 per the updated law in HB227.

Christina Polesovsky- sounds like the information being collected isn't complete and need to make sure that form is gathering all the information needed. If you don't complete the information to pull a permit, then you don't get it. So, getting all the information will be beneficial.

Dave Coniglio- A lot of good information. Will we continue with a quarterly meeting for this group?

Scott Mergler- Quarterly is good with me.

Marc Armstrong- I think the topics were highlighted well, I think we are in a good spot and a good handle on the issues. Good discussion overall.

Dave Coniglio- we will get something on the calendar for the next quarter.

Jason Broyles- Yes sir, I will get it on the calendar for everyone.

Dave Coniglio- Thank you all!

Meeting adjourned at 11:09am.

DRAFT