

OAR/ORS Committee Minutes -

June 14, 2017

Held at the Oregon Public Utility Commission

Board Members attending: Micah Brown, Lori Koho and Jeff Daniels.

Guests Attending: Scott Gallegos, Jarrod Morrison, Kevin Hennessy, Kitty Davis, Lani Radtke, and Linda Burger.

Agenda

1. Announcements and Introductions

a. Micah Brown called the meeting to order at 2:10 p.m. and introductions were made.

b. Jeff Daniels moved to accept the minutes and Micah Brown seconded the motion. The minutes were accepted.

2. Chair Statement

a. None

3. OAR Committee Items

a. Tolerance Zone

i. Revisit discussion concerning Tolerance Zone and underlining reasoning for the need to amend Reasonable Accuracy Zone.

Micah stated to the committee that the Tolerance Zone was first introduced by the PUC in September of 2016 which consequently encouraged nine months of controversial discussion, much of which without PUC involvement resulting in the item veering off track from its original intent. Micah then asked Kevin and Lori to

a defined Tolerance Zone, moreover the underlying reasoning or incident. In collaboration, Kevin and Lori explained that it arose from an incident concerning an excavation that took place parallel and vertically above a facility. This particular excavation resulted in a damage to the facility or a component attached to the facility as the excavator was digging within 24 inches inline and directly above. This prompted the need for the definition of “Reasonable Accuracy Zone” to either include a vertical element or an additional definition to define appropriate digging parameters for excavators when digging vertically above a facility.

After much debate the original language and verbiage presented by the OPUC was retracted and the committee agreed that it was best to stay with one existing definition but make an amendment to extend the 24 inch lateral verbiage to include a vertical axis; this would require excavators to be aware they are to use proper care within 24 inches of all sides of an underground facility and not just laterally. This will consequently require excavators who are excavating or boring above or below a facility to ensure the path of excavation adheres to a 24 inch circumferential buffer. Micah stated that he would take the proposed change as follows to the board. *“Reasonable accuracy” means location, within 24 inches, of the outside lateral dimensions of **all** both sides of an underground facility.*

b. Due Date Exemption

i. Micah explained that there were initially two parts to the possible need for exemptions to OAR 952-001-0070 that were agreed upon at the May committee meeting. The first was to exempt the two full business day rule when the call center allows an excavator to extend the work to begin date beyond two business days. Micah explained that after presenting this to the board at the May meeting, the majority of the board

decided that it was not necessary. Secondly was to make exception to the rule if there was a mutually agreed upon time and date between all parties. The board had varying opinions and expressed minimal support to having this written in actual rule and or the verbiage lacking a declaration for the need to have a written accord. Micah presented to the committee verbiage (See Attachment 1) that would place the language as an exception out of initial rule and would cover the board's instruction that it also encompass the need for a documented record. Micah explained that the presented language was not exactly proper verbiage nor was it what he intended for the exception to the rule to permanently consist of but rather a quick example for which the committee can understand what was asked of him during the last board meeting.

Scott and Jarrod both felt that the language and the placement of such to be the best place for the language. Kevin and Micah both agreed that the exception to the rule creates a paradox to the rule itself and its ability to use the rule in an enforceable capacity. Scott expressed that locate requests extend beyond the two business days in practicality due to agreements for numerous reasons which the committee did not disagree with. Scott further stated that he was not in favor of such an amendment for the sake of enforcement but rather compliance to the rule for the majority of locate requests.

There was further discussion but varying positions continued and the committee as a whole could not come to a mutual solution. Micah then explained that both points are valid but he advocated the item be tabled through the revision if the committee could not find reasonable compromise. Micah and Jeff agreed the item be tabled as there could be no resolve. It was mentioned that voluntary response may give a better

form of recorded documentation for future issues and allow the OPUC to have such to review details appropriately. Micah further explained the need to remain productive in committee and move through items, not allowing any to impede the progress of others.

4. Old Business

a. Micah had brought to the committee a previous item that the OPUC had presented before as possibly problematic for enforceable clarity and felt that it should be better defined in rule. Statute 757.993 states that a violation to any rule of the OUNC shall be a separate offense and that for a continuing violation, each day the violation continues to constitute a separate violation. This was recognized and attempted to be exercised to enforce a complaint involving the violation of OAR 952-001-0070 but was denied by the ODOJ. Since the committee felt the rule stands as unamendable in Statute, there was no practical need to clarify it in rule or definition.

5. New Business

a. Micah reported to the committee a discussion that had taken place with a stakeholder to address issues concerning the abuse of the call-center such as: bidding jobs, excessive re-calling of tickets, and blanket dig areas encompassing a vast distance to survey or identify facilities. Micah explained to the committee that he instructed the individual to gather the necessary information and documentation of all incidents so that the board may be briefed properly and suitable action taken.

6. For the Good of the Order

a. None

Micah adjourned the meeting at 5:00pm