



Date: August 13, 2020

Location: Remote Webinar

Present:

✓	Chris Kampmann	✓	Jim Moody	✓	Mark Williams	✓	Ted Jensen
✓	Eric Kirkpatrick	✓	Patricia McKinney-Clark	✓	Mark Jurgemeyer	✓	Ray Swedfeger
✓	Jeannette Jones	✓	Kat Duitsman	✓	Mark Frasier	✓	Tom Sturmer
✓	Rob Ellis		Lori Warner	✓	Patrick Fitzgerald		

* Indicates arrival after roll call

Note: The meeting was recorded and started at 12:00 pm. These minutes represent a summary of this meeting and are not intended to be a verbatim document. Audio recordings of the meetings can be obtained by contacting cdle_safetycommission@state.co.us.

MINUTES APPROVAL:

A Motion was made to approve the minutes from the July 9, 2020, meeting: motion carried and discussion was entered. There was no further discussion, a vote was taken to approve the minutes. It was approved.

PAST BUSINESS

- Status of COVID-19 Impacts:
 - OPS staff advised that OPS staff continue to work from home through 10/31. If in the future there are in person meetings there would be mitigation requirements such as masks.
 - It seems that locate companies are having trouble staffing from within Colorado. They are working to bring in out of state employees.

CURRENT BUSINESS

CO 811 UPDATE:

Jose, Carla & Whitney presented:

- Industry update: general note: CO 811 is working with staff on how to message and explain to excavators the purpose of the UDP SC. One solution is referring frustrated callers to the Co 811 website and an infographic. Another is only having certain staff bring up the option of filing a complaint. In the past, when referring callers to the UDP SC website, it seems that callers are looking for a phone number to get what they want (a resolution). CO 811 continues to work on this.
- Operations update: 220 Center stats shared. Volume is still higher than projection and last year. Damages numbers, though, have not increased proportionally. Looking at data differently to look at 'Transmissions' completed vs 'Tickets' completed. Also have some upcoming policy and procedure changes. iLearn survey response shared with Commission's Best Practice group. 811 Voice Channel Service Interruption

occurred from 7/25 to 7/27. Online was operational. Calls with caller ID, 811 attempted to reach out to ensure needs were met.

- Member relations: automatic positive response re-notifications - there are 5 companies that make up more than half of the data. Most are multiple facility types. 811 is looking at efforts to directly assist those members in responding on time. In looking at 2019 to 2020 data, member code positive responses were compared. On time transmissions are increasing and # of members responding is increasing. Still have 52% of Tier 2 members to convert.
- Damage Prevention & Marketing: Virtual meetings and Tier 2 Conversion video developed. Virtual Annual meeting is 9/15. Annual survey being sent out shortly. Safety Commission Survey results reviewed (regarding monthly updates).

The Commission asked (in regards to Member relations): of the 5 companies that make up a large portion of re-notifications, how much of the transmission volume do they make up? CO 811 will follow up in a future meeting with that answer. Commission also discussed the difference between posting a positive response on time versus completing the ticket on time.

ADDED AGENDA ITEM: Colorado Springs [draft] Damage Prevention Program

- Based on information provided in drafts to certain Commission members, the Commission wants to consider an Executive Session with the AG. Specifically, the direction Colorado Springs, Home Rule Entity, is considering going in developing a Damage Prevention Program appears to have elements that may not meet the Excavation Act (CRS).
- The Commission wants to ask questions of the AG to understand scope, example: can they have an opinion on this? What is the program going to cover and how will their complaint process work? Also, how does this impact PUC and PHMSA funding?
- Before the Executive Session, a member of Colorado Springs is present, and is willing to discuss this matter with the Commission.

Tabled to later in the meeting (on the recording). Discussion notes continued here:

- Shelly Dornick, from Colorado Springs, joined the discussion. Ordinance drafted & looking at stakeholder feedback. Based parts of it on existing structure within the City. She then answered questions from Commissioners:
 - Program Manager will manage complaints, and make decisions. If the complaint is against the City or the City's utilities, an outside representative would be hired (this would also happen for appealed or escalated complaints). Their attorneys felt that language within the Statute 'similar' allows this set up to move forward. Partnering will be between Co Springs utilities and the City to run the program. One thought was to look at how the State's program can support the City's - ex: if there is a request for an alternative hearing, perhaps it goes through the Commission
 - Commission asked for clarification on jurisdiction; Shelly advised that they will hear anything within their footprint [municipal boundaries]. It was acknowledged that Colorado Springs utilities (outside the boundary) is a grey area still tbd.
 - Commission asked to clarify the complaint filing opportunities - will parties have a chance to present their view of the issue. Shelly advised that all complaints would still be filed through the State's Commission's process and forwarded to Colorado Springs when applicable. Program Manager would then follow up with involved parties to gather information. They do not plan to have Review Committees.
 - Regarding PUC funding with PHMSA, would Colorado Springs' program work to comply with those requirements? Shelly said they would work to do so.
 - Regarding markings, they will likely allow both field marks as well as electronic delineation to occur.
 - Discussed some of the language in the ordinance (ex: soft digging), and the reason it deviates from State Law. Also looked at clarifying 'standby' and the excavation within 10 days requirement (in City laws).

- Asked what opportunities there are for additional stakeholder comments. Shelly will have to follow up to determine when exactly comments can be shared. Ultimately they want the feedback.
- Having had a damage prevention program historically, Colorado Springs is hoping to maintain stakeholder relationships and work locally to increase damage prevention and compliance.
- Commission would like to be kept informed in the process as Colorado Springs moves forward.

Tabled to later in the meeting (on the recording). Discussion notes continued here:

- Commission wants to ask the AGs office: During the public comment period, can the Commission (stand as a stakeholder to) comment on Colorado Spring's draft ordinance? If yes, are there issues or conflicts with the draft ordinance as compared to the State Statute, and specifically with the word 'similar' [program]. Ex: they want a singular Program Manager to review complaints vs a Review Committee of stakeholders. Another question: Are there any concerns that the program will or will not comply with PHMSA requirements?
 - If the Commission is a stakeholder who/how will the comments be provided?
 - The Commission is looking at holding a special meeting & executive session before the September meeting.

COMPLAINT HEARINGS:

- The Review Committee's Findings of Fact forms from the July 30, 2020 hearing was reviewed with the Safety Commission.
 - Complaint # 2019-072: **A Motion was made to revise the Review Committee's recommended remedial action as noted in the Findings of Fact form:** Motion carried & discussion was entered. Discussion: Based on last year's decision to include utility owners on complaint forms, and based on an opinion from the Attorney General's office, and based on how the Statute refers to utility owner/operators and excavators only, that makes holding locators responsible not an option. Suggest removing the fine recommended for USIC. Maybe impose training if applicable. Others discussed allowing both parties to be given remedial action.
 - **During discussion the Commission requested to go into EXECUTIVE SESSION** to discuss the Statute to discuss specific legal questions regarding the responsible parties for remedial action resulting from a hearing. **A Motion was made to enter executive session:** Item: Discussion with attorney (AG's office); Authorized under 26-6-402 Motion carried.
 - After coming out of the Executive session, the discussion resumed: The motion was withdrawn and a new Motion was put forth: **A Motion was made to revise the Review Committee's recommended remedial action as noted in the Findings of Fact form to remove the remedial action imposed on USIC and only note remedial action against CenturyLink (\$5,000):** motion carried and discussion was entered. There was no further discussion. A vote was taken. The motion was approved. *Per Statute ensured 12 members voted in the affirmative to change remedial action.*
- The Review Committee's Findings of Fact forms from the August 6, 2020 hearing was reviewed with the Safety Commission.
 - Complaint # 2019-074: **A Motion was made to adopt the Review Committee's recommended remedial action as noted in the Findings of Fact form:** Motion carried & discussion was entered. No further discussion was had. A vote was taken. The motion was approved.
- Upcoming hearings: Selected Review Committee members for August and September hearings.
 - Staff will follow up with the AGs office regarding potential Home Rule provisions (Denver Water) and will get back to the Safety Commission if the related hearing occurs.
- Complaint 2020-005: \$5,000 fine payment due by 8/17/20; requested a payment plan. **A Motion was made to amend the current invoicing to allow a payment plan of 3 equal payments over 90 days:** Motion carried & discussion was entered. No further discussion was had. A vote was taken. The motion

was approved. As a staffing clarification, it was discussed that the payment option is only being offered upon request (not a default option for all).

- Updates to Forms: Began to review Complaint Received and Withdrawal emails. Discussion about process improvements included sharing of 'exhibits' earlier between parties. This item will move to next month's agenda.

BEST PRACTICES:

- Reviewed the small group meeting and what is planned for the next meeting.

ADMINISTRATIVE ITEMS/OPS UPDATE:

- Info emailed to Commission members due to the meeting running late.

OTHER BUSINESS:

- None

The next meeting is scheduled for September 10, 2020; unless a Special Meeting is held.

Meeting adjourned at 3:48 pm.