

# **One-Call of Wyoming**

## **Minutes**

September 8, 2004

Parkway Plaza, Casper, Wyoming

A regular meeting of the One-Call of Wyoming Board of Directors was held in the Senate Room at the Parkway Plaza in Casper on September 8, 2004, at 10:00 a.m. In attendance were the following:

### **BOARD MEMBERS PRESENT:**

1. George Fernandez – Liquids Pipeline Transportation (Terasen Pipelines (USA) Inc.)
2. Lowell Ray Anderson – Joint Powers Board/User Owned Water-Sewer-Air (Shoshone Municipal Pipeline) [via telephone]
3. Tim Hibbard – Municipal (WYDOT)
4. Jim Bunch – Utility Locates of Weston County (Black Hills Power)
5. Bill Pettit – Gas Distribution (Montana-Dakota Utilities Co.)
6. Arnie Davis – Call-In Dig-In Safety Council (Crook and Campbell Counties) [via telephone]
7. Keith Thomason – Electrical Distribution and Transmission (Xcel Energy)
8. Dale Wamhoff – Central Wyoming Utilities Coordinating Council (City of Casper)
9. Mark Ransdell – Gas Gathering and Transmission Pipelines (Questar) [via telephone]
10. Russell Waldner – Carbon County Pipeline Association (Carbon Power & Light) [via telephone]

### **BOARD MEMBERS ABSENT:**

1. Daniel Thissen – Albany County Utility Coordinating Council (Bresnan Communications, LLC)
2. Wayne D. Johnson – Local Telephone Communications (Qwest)
3. Steve Loftin – Wyoming Contractors Association (71 Construction)
4. Bob Park – Long-Distance Telephone Communication (Pacific Power)
5. Chuck McCoy – Wind River-Big Horn Basin Utility Coordinating Council (City of Riverton)
6. Cable Telecommunications – Position Vacant

### **GUESTS:**

1. Tim Stubson – Attorney
2. Candace Miles – One Call Systems, Inc.

### **ALSO PRESENT:**

1. Harry Williams – Executive Director
2. Judy Williams – Secretary

President Fernandez called the meeting to order at 10:10 a.m. and asked all present to introduce themselves.

President Fernandez asked for additions or corrections to the agenda. After adding “location of lines” to New Business, Tim Hibbard moved, seconded by Dale Wamhoff, and carried to accept the agenda as corrected.

Jim Bunch, along with Tim Stubson, moderated a discussion of the proposed legislative changes

**37-12-302(j)**

Changing the penalty from \$5,000.00 to \$25,000.00 plus legal fees for damage to any underground facility by knowingly and willfully violating the statute. Tim recommended that the penalty should be in compliance with the Federal law, which is \$100,000.00 for each violation up to \$1,000,000.00 and award reasonable costs and attorney’s fees. Also allowing the owner of the facility to bring action was added.

Jim recommended voting on the entire package instead of voting on each section individually.

**37-12-302(b)**

Excavator shall mark proposed work area by staking or white paint. Include excavator shall mark proposed work area by staking or white/black paint using APWA Guidelines and/or give an accurate description. Use term white lining instead of paint. Tim recommended to add a sentence “The person requiring excavation shall also mark the proposed area of excavation by using white or black stakes, paint, or by other clearly identifiable marking”. After further discussion it was decided to add verbiage in regard to if the excavation is too large for marking the excavator will contact the utility owner(s).

**37-12-302(d)**

Require facility owners to notify excavator if they do not have facilities in the proposed work area. Tim recommended that a new sentence be included stating a person receiving notice that does not have underground facilities in that area will provide notification of that fact. It was suggested to insert “to the person requesting the excavation” of that fact.

**37-12-302(d)**

Lowell Ray Anderson was adamant about inserting in the first sentence . . .in subsection (c) of this section, **or for design**. There are companies that will not locate for design as they do not get paid for the locate. Lowell Ray Anderson moved, seconded by Tim Hibbard to add “or for design” in the statute. There was discussion on a couple of companies hearing about the changes, they would be lobbying against the change. Tim suggested adding a new section that talks about design locates i.e., that facility owners could charge for those but in doing those locates they have to be the same accuracy standards as identified in subsection (b). A question was asked if the time frame would be the same. Motion failed – 2 ayes – 8 nays.

(Russell Waldner entered the meeting at 10:50 a.m.)

**37-12-302(c)**

Change the length of time a locate is good. Change “business days” to “calendar days” and omit “unless the location marks are still visible”. The Legislative Committee voted to leave the wording as is.

Dale Wamhoff moved, seconded by Lowell Ray Anderson, to change “business days” to “calendar days” which refers to refreshing the markings. Motion carried – 8 ayes – 2 nays.

Russell Waldner moved, seconded by Arnie Davis, to strike “unless the location marks are still visible. Motion carried – 8 ayes – 2 nays.

### **37-12-305**

Remove exemptions for underground facilities located within and operated by the owner of a secured facility [37-12-305(g)]. Remove the exemption for certain oil and gas production facilities [37-12-305(a)]. Tim added a subsection in this section. Tim’s addition states that if you have an exempt facility and you choose not to belong to the one-call program and an excavator, who does not have actual knowledge of the facility being present, damages that facility, the underground facility owner is liable not the excavator.

Tim was also asked for an opinion on whether cities/towns and public owned facilities were exempt from joining the one-call system. His review of the statute indicates that municipalities are required to be a part of the one-call system and are required to pay their share of the costs for the services provided. Under definitions ‘Persons having underground facilities **shall** join the notification center and **shall** participate in the notification center providing for mutual receipt of notification of excavation activities in a specified area and pay their share of the cost of the service provided. That language establishes that and ‘persons’ are required to be a part of the one-call system and are required to help pay the costs of the system. The question then becomes whether cities and municipalities fall within the definition of ‘persons’. The Wyoming Legislature has specifically provided that “‘person’ means . . . a municipality. . .” Wyo. Stat. Ann. § 37-12-301 (b) (vi). Given that definition, the intent to require municipalities to be a part of the one-call system appears fairly clear. Harry was instructed to contact WAM about municipalities joining or paying their share before writing to the cities/towns that are not members.

Tim Hibbard moved, seconded by Keith Thomason, and carried to accept the Legislative Committee’s Report with changes.

Lowell Ray Anderson commented there have been discussions on who is to make the call, the excavator or the owner, and what are the liabilities. He noticed that the statute states the person requiring the excavation shall make notice, the person requiring doing this or that. To him that means not the excavator but the person that hired the excavator. Tim stated he doesn’t think that under the language it is necessarily the owner, it could be an independent contractor doing work on behalf of the owner whoever is initiating the excavation the excavation has to be done – that is the one that is responsible. Tim stated that there is potential, if I’m a contractor and I don’t call in and provide notice of the proposed excavation it creates a possible argument that you could say that I’m not the one requiring the excavation I’m doing the excavation but I am doing it on behalf of the owner he is the one requiring the excavation and so he is the one with responsibility to call. Lowell Ray Anderson moved to change the wording to the person requiring the excavation or the excavator. Tim stated that it would put the burden upon those

conducting and requiring excavation to work out among themselves on who is going to do it. Arnie mentioned if the person requiring the excavation calls for the locate and he is the only one that calls and you have four people that are working on this project, are we saying that they can all work under that one locate? The answer was they would all have to call for a locate. The attorney stated you would not want that language. Lowell Ray Anderson withdrew his motion.

Tim stated he would make the changes requested at this meeting and send them to Harry. Jim Bunch thanked Tim for his time and effort he has done on the statutes and also thanked the Legislative Committee members.

The August 12, 2004, Board Meeting minutes were reviewed. Jim Bunch moved, seconded by Keith Thomason, and carried to approve the August 12, 2004, Boat Meeting minutes.

Tim Hibbard gave the financial report. After discussion, Jim Bunch moved, seconded by Bill Pettit, and carried to accept the financial report as presented and pay the bills.

Candace Miles presented One Call Systems, Inc., Operational Report for August. There were 7,199 incoming calls and 42,753 outgoing messages. There were 6,550 routine tickets, 124 short notice tickets, 251 emergency tickets, 59 canceled tickets, 35 damage tickets, 87 no response tickets, 93 overwrite tickets, and 249 meetings scheduled. Average speed of answer was 18.5 seconds. The Casper office is taking all Texas' faxes and E-mails, which is 4000 a month. Candace stated that calls after 5 p.m. and before 7 a.m. go to Pittsburgh. A question was raised as to when do calls go to Pittsburgh during the day. Candace commented that she initiates the transfer. It is called "time of day routing" and it is preset into their system. If she needs help, she calls Pittsburgh to see how busy they are and if they are not as busy as Wyoming, she transfers 30 percent of the calls.

There were no reports from Carbon County Pipeline Association, Utility Locates of Weston County, Wind River-Big Horn Basin Utility Coordinating Council, or Albany County Utility Coordinating Council. Call-In Dig-In Safety Council had a meeting very sparsely attended – nothing much going on but work. Dale stated that Central Wyoming Utilities Coordinating Council had a Board Meeting. Dale submitted his resignation and stated that Larry Mead would be his replacement.

Lowell Ray Anderson reported there was nothing to report on the Secretary's report.

One Call Systems, Inc.'s, response to OCW's letter was reviewed. Harry stated there were some options. He pointed out that the next lowest bid in 2002, using an in state office, was \$4.50 and that was Answering Service of Casper. Harry asked Gary what the price would be if we went out-of-state service and Gary said probably fifty cents cheaper. Most of the ten percent increase OCS requested is to keep people on board in the center. There is nothing in the issues that would drop the increase – it is mainly for wages in the Casper center. There are 11 employees and Candace. Two or three employees handle the Texas faxes and E-mails per day. Russell asked if you increase the per ticket cost by three percent, how much does that increase the overall after it is calculated out in the dollars, is it close to the three percent? Or is it higher? The ten percent is about \$25,000 a year increase. But then the next year after that that is another twelve cents per ticket. Harry did not take it down to the ticket. Russell said that what he is asking is if it makes a big difference when you get to the total cost. Is it higher than the three

percent, does it end up being four and one-half or five percent? When it is compounded through all the tickets with the ticket growth. George asked Russell if it was incoming versus outgoing tickets. Russell stated that the tighter the ratio, the worse the revenue is and the larger the ratio is, the better our revenue is. George said he calculated the three percent increase out and it ended up after five years the total ticket cost would be around \$4.40 to \$4.50. Lowell Ray Anderson stated again he expected the price would go down because the first three year contract had to include those costs of getting things started up and also the cost of putting all of the different member's mapping on their system. That has all been done now and so that is no longer a cost to them to do that. The Board was concerned about the ten percent increase the first year. Possibly renegotiate the ten percent increase with Gary? Russell suggested that we look at the increases as to how it affects the over all budget. Instead of looking at the percentages we need to know what they mean and how they reflect everything else. We should put it in actual figures and put it in the budget and see if it is acceptable. We would then be looking at realistic figures and have a comparison of what that service is costing overall. It would be easier to look at based on budget. George stated we can't depend on grant money every year and now with the change in fee structure that is going to change the budget.

George asked if anyone had problems with the rest of the Gary's letter. Lowell Ray Anderson stated they were not notified of the last update they sent in to their database let alone of having any way of knowing that the updates were properly entered. Also, Gary states there is no cost to updates and then gives five options. The last option states that there is a reasonable cost. (There are costs with some of the other options as well.) There needs to be more discussion with Gary on updating of maps.

There will be a Board Meeting October 13, 2004, starting at 10:00 a.m. and then discussion of the contract, etc., with Gary at 12:00 p.m. George also requested that all Board Members be present in person.

Lowell stated that members still don't have the capability of defining our own corridors where we are to be notified; we have to go by their gridlet system. George stated the way his company did it they gave OCS their lat/long and told them we want a 400 foot buffer on each side of the centerline of the pipeline. It is not a corridor, it is a grid, it is a block system. There are times you are outside your area of service you want to be in but that is how they enter it in the excavation.

Jim Bunch asked about the election and nominations of Board Members. Jim asked those Board Members present if they would be interest in remaining on the board. The respective councils appoint their own representatives. It was suggested to contact the Long-Distance Telephone Communications group to see if there is a representative for that category and if no representative is elected from that group, then appoint Bob Park as the representative. Jim asked if the companies were to nominate someone or is it up to OCW. He was told the Nominating Committee is to find people for the elected positions where terms are expiring. Russell suggested leaving some of those categories open if they are not filled and maybe that would send a message at the Annual Meeting that we need those representatives to represent their group. Clint Roadman has not called back on a replacement for Jim Wilhelm. The notice for the Annual Meeting and the proxy ballots are to be sent 30 days before the Annual Meeting.

Wind River-Big Horn Basin Utility Coordinating Council requested a \$300 donation. Tim Hibbard moved, seconded by Dale Wamhoff, and carried to give Harry Williams the authority to issue donations to the council's requests not to exceed \$300.00.

Mark Ransdell asked if anybody was having problems about service locates beyond the meter or pedestal if the service is not attached to the house. He gave an example: Questar is required to operate and maintain the service line up to the house. The issue is if the power company has a pedestal and meter out in the alley or in an easement and the line from that meter to the house belongs to the homeowner. In most places the meter is at the dwelling, so this is not an issue. PP&L will locate right up to the house, but in some places where they have a pedestal or if their power meter is out in the alley or in an easement then that service to the home actually is paid for and installed by the homeowner. The problem is if Questar is installing a new gas service or re-routing something, we call in for a locate. In the past PP&L has had their own company do the locates as a courtesy even though that line does not belong to them. There are liability concerns with that – they don't want us to dig into it and we don't want to dig into it and I am talking from an excavator point of view. Russell thinks that PSC is going to have to require that with the electrical just like the gas utilities.

Don Smith (Gillette) sent in wording he would like on a "short notice" ticket. Candace stated that on the bottom of an emergency ticket it says, "does your job fall under this category" and you have to put in a "y" for yes or "n" for no, maybe you could do something similar with this. After discussion, it was decided to put the whole disclaimer the caller is read on the ticket. We will ask Gary next month.

There is \$8,300 left of the PSC grant money. Jon Jacquot does not want to do any of the printing. He is going to go to the new director to see if he can get money from PSC. The radio ads will go through November. The Legislative Committee authorized the office to have the handbooks printed. Since the Federal law has been changed, we are waiting for Tim Stubson to send the change so it can be incorporated in the handbook.

Lowell Ray Anderson had some corrections and comments on the fee structure. On Group III it should be 100 population served (or portion thereof). He feels the following should be added at the bottom: Membership fees for all groups and fees for population served (Group III) are due and payable by January 15. For members who join after January, these fees will be pro-rated for the remaining portion of the year and are due and payable at the time of membership. Assuming we are going to keep the same policy: Per message fees for Groups 1 and II are billed to members on a monthly basis and are due and payable within 30 days of receipt. Invoices will not be sent until at least \$15.00 is owed. At year-end debit balance of less than \$15.00 will be billed with the membership fee the next January. He thinks we should keep that language. Harry disagrees. It hasn't been done the last year. Some companies don't get 15 tickets for three months. We get calls from companies how many tickets do we have this month – they call every month. You had that in there to save us work – well it doesn't. Lowell Ray said that is fine, but he still thinks the other language about fees are due and payable by January 15. Harry asked if it is put in there what is the penalty – you're not going to take them in the system? If you are going to mandate something you better have a penalty on it. Lowell Ray asked why send bills? What is the penalty if they don't pay their bills? Harry commented there has never been a problem like that but if someone hits the 15<sup>th</sup> and we get nasty with them we will probably have problems. Lowell Ray still thinks there should be some time on there to be paid by. Harry stated that BP

America just paid their membership – they are about eight months over due. Lowell Ray Anderson moved, to add the language at the bottom of the fee structure saying that this is due and payable by January 15<sup>th</sup>. Dale Wamhoff asked Lowell Ray if he was going to E-mail Harry the request and the reason why he wants the 15<sup>th</sup> and we can discuss this at the next meeting. Lowell Ray Anderson withdrew his motion.

The next Board of Director's meeting will be **WEDNESDAY, OCTOBER 13, 2004, 10:00 a.m.**, at the Casper Parkway Plaza.

With no more business to come before the board, Dale Wamhoff moved, seconded by Tim Hibbard and carried, to adjourn. Meeting adjourned at 2:10 p.m.