



NCUDPRB MINUTES OF MEETING

NCUDPRB Board Meeting

Tuesday, July 20, 2021 – 10:00am

Location – Virtual via Microsoft Teams

Board Members Present Via Teams: Megan Riley (Chair), Rick Gould (Vice Chair), Lisa D. Smith-Perri (Treasurer), BJ Lanier, Chris Russ, Freddie Young, Greg Puckett, Hope Morgan, Louis Panzer, Rufus Jackson, Tony Konsul (off at 1:15pm), Tom West (dropped for 10 mins at 1:15pm), William Wheeler

Board Members Absent: Jonathan Holt

Others Present Via Teams: Juliane Bradshaw (legal), Cyndi Sosa (board administrator)

Guests Present Via Phone: Ralph Bizzarro (CHMS), Lucas Strain (Hyper-Networks), Dino Farruggio (ATT), Doug Hayes (ATT), Trevor Green (Dominion Energy), James Collins (Piedmont Natural Gas), Daniel Barret (Duke Energy), Ryan Draayer (Hyper-Networks), Jon Sirken (Hyper-Networks)

Quorum Present? ☒ YES ☐ NO

Meeting called to order by Chair, Megan Riley at 10:11am

Megan took roll call and asked if there were any guests on the call, guests noted.

April 2021 Board Meeting Minutes Approved? ☒ YES ☐ NO

Megan & Cyndi briefly reviewed minutes from April

Motion:

- Tom west motion to approve April 2020 board meeting minutes
- Louis seconded motion
- Opposed – None

Motion Carries

FINANCE-

Finance Reporting – Lisa D. Smith-Perri, Treasurer

- Balance sheet, as of June 30th the account has a \$134,747.00. Close to \$142k in receivables. Accounts Payable of \$9,160.56. Payment processing through Commerce is not as fast as we would have hoped but the payments are coming in.
- Budget – This year we billed \$100,000. Our budget was put together based on billing at \$100,000 and the MOU & contracts we had in place. Any questions about the budget? No questions.
- Lisa reviewed the Accounts Receivables list.
- Cyndi provided an update on the 2020 and 2021 outstanding invoices.
- Lisa mentioned the payment process being slowed down by Commerce. Suggested not using Commerce's services in the upcoming year.
- Louis suggested CHMS lets the board know when they are ready to handle everything directly without using Commerce. Lisa agrees that is a great idea.



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- CHMS is ready to handle the finance portion of services however a start date of 1/1/2022 would be suggested for the transfer, to avoid confusion and delay in receiving payment on the current open invoices.
- Any other questions regarding finance. No questions.

DISCUSSION/ VOTE ON PO BOX

Megan opened the discussion by asking the board if they feel we need a PO box.

Motion:

- Louis – motion is to not have a PO Box and to use the address of the contractor.
- Tom seconded motion
- Megan, any discussion needed? Lisa thought it was a requirement and was more worried about consistency, but Lisa stated CHMS is doing such a great job and she hopes we are still the contractor in 10 years. Louis agrees and thinks CHMS will be with us for some time.
- Opposed – None

Motion Carries

DISCUSSION ON COMMUNICATION CHAIR

- This topic came up b/c we would like to start adding information to the website. Do we think a communication chair is important? This chair would approve information being published to the website without having Chair/board approval
- Megan opened for discussion. Louis thinks it's a great idea. Louis thinks it's important to put together some guidelines/guardrails ahead of time so the Communication Chair can operate without board approval knowing what content is approved and what is not.
- Rufus agrees. Hope agrees with Louis as well.
- Megan asked if someone would like to put together some framework as to what should or shouldn't be put on the website. Louis agrees to be part of a group with Megan and Cyndi.
- Megan would like to meet with Louis and Cyndi to put together some framework for review at the October board meeting.

DISCUSSION ON VIRTUAL VS. IN-PERSON BOARD MEETINGS

- Megan's company is looking to bring people back to in-person this fall. Does the board want to get back to in-person meetings and if so, does October sound like a good timeframe?
- Any pros or cons from anyone? Louis said some utilities are extending the virtual time frame due to the variance. Also, does meeting have to be in Raleigh? If it can be in Greensboro, they have space at the event center at NC811 with the ability to stream virtually.

Motion:

- Louis motioned to attempt a hybrid board meeting in October at the Greensboro Event Center
- Tom seconded motion
- Opposed – None

Motion Carries



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WEBSITE

- Reports have been coming in electronically on a steady basis. Megan also showed the board the function added to the website where alleged violators can submit their response to the alleged violation electronically.
- Louis asked if there is any way we can amend the electronic report to add more questions or require more detailed information such as the nature of the report. Areas of the form that need updating are #2 and #3.
- Louis went over some case management glitches he has noticed. Cyndi confirmed having the same issues. Cyndi will work with John Black to see if any of these issues can be cleaned up or if we have an alternate solution.

11:10am

Short break until 11:25am then we will start Case File Reviews

11:25am - Megan took roll call again

CASE FILE REVIEWS

Everyone should have received a spreadsheet containing detailed information on the case files due for review. Notes have also been added to case management. There are 45 cases due for review this board meeting. Hope is asking why the cases are grouped in the order that they are. Louis explained the reason is because the actual violation is exactly the same for each group. The benefit is mainly for time savings. The board will review each case but might group them together for penalty discussion. Freddie recommends moving down the spreadsheet through the case numbers as shown on the spreadsheet.

Motion:

- Louis motions we review the bundled cases as presented, they have been bundled in the most efficient way found.
- Freddie seconds the motion
- Discussion – Tom West is concerned about changing the way the board reviews cases. Hope wants to confirm we are still going to review each case. Tom just wants to make sure we are going to review each case and that we are going to get through them all. Board Administrator explains the reasoning for bundling and ensures this is not the intent going forward. This is a special circumstance, in this case there are so many cases filed by the same party against the same parties, for the same violations in the same timeframe. Tony believes the grouping is the best way to review these cases.
- Opposed – None

Motion Carries



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AT&T

Case # 297, 298, 299, 300, 301, 304, 317, 319, 320, 321, 363, 367, 370, 373, 377 & 378

Case #297 (with above remaining cases bundled into violation/fine consideration)

Recusals – Rick Gould, Chris Russ

Violation-

Motion by Freddie - Freddie recommends grouping the cases together with one notification of violations 87-121(b) and 87-122(c)6 with a penalty of a fine.

- Greg seconded motion

Opposed – None

Motion Carries

Penalty- Total penalty of \$2,000

- Fine Allocation

- History – 0
- Gravity - \$500
- Circumstance - \$500
- Culpability - \$500
- Other - \$500

Discussion-

Hope shared the Hyper Networks letter as well as the response sent in by AT&T. Louis stated there has been a strain and struggle on the process. AT&T has taken steps internally to try to improve the process and handle the increase in requests put on all parties in a timely manner. Seems like everyone is overwhelmed with work. Louis agrees this is the environment based on the increased volume. Hiring problems are real and ticket volumes continue to grow. Louis said NC811 does not see a slowdown in the industry anytime soon. Trying to find properly trained employees to hire to assist with the ticket volume is almost unattainable. Freddie says this is a challenge but has nothing to do with the way the law is written. Megan added we don't know the timeline of Google or what is pushing them to feel this needs to all get done yesterday instead of working with all utilities. Megan is not sure what is causing the need for high demand. Louis believes it is contractual obligations and this is why we encourage people to work together and handle things.

Greg agrees with Louis and also with Freddie. As a board how do we handle these cases and vote on them? Louis noted we have found violations against 87-121(b). This board does not have to have damage reported to vote on a violation of the law. Megan noted the board has taken this a step further that since October 2019 the board has started requesting tickets from NC811 to note which other entities have not responded to requests to locate on time. Louis mentioned the board has also bunched a few cases in the past based on failure to locate on time.

Freddie feels if the two companies are working together to resolve much of the situation that is great, but he also feel that there should be accountability. As a contractor you should be able to say I've followed the process and work wasn't done according to the law.

Greg asked if we can we bundle all the AT&T cases together as a due process to impose a penalty on these cases as a group. Megan replied saying historically we have. Historically Megan said we would pull information to see if the alleged violators have showed up in our history previously and take that into consideration.



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Greg said he's not saying the board should not put out fines all the time but in this case the contractor and utility are not working together. He recommends grouping the cases together and putting a fine on it.

Duke Energy

Case # 315, 316, 318, 364, 368, 369, 372, 375 and 379

Case # 315 - (with above remaining cases bundled into violation/fine consideration)

Recusals - Rufus, Megan, Rick

Louis facilitating

Violation-

Motion by Freddie to batch these 9 cases together with a single notification of violations 87-121(b) and 87-122(c)6 with a penalty of a \$2,000 fine.

- Tony seconded motion

Opposed – none

Motion Carries

Penalty- Total penalty of \$2,000

- Fine Allocation

- o History – 0
- o Gravity - \$500
- o Circumstance - \$500
- o Culpability - \$500
- o Other - \$500

Discussion-

Failure to respond in a timely manner. Freddie asked if Duke's response was about the same at AT&T's. Louis mentioned Hyper Networks pulled many reports, all remaining case files in this bundle contained reports with failure to respond within the 3 hrs.

Piedmont Natural Gas

Case # 302 and 303

Case # 302 (with 303 bundled for violation / fine consideration)

Recusals - Megan, Chris Russ, Rick Gould, Rufus

Louis facilitating

Violation-

Motion by Freddie to batch these 2 cases together with a single notification of violations 87-121(b) and 87-122(c)6 with a penalty of a \$500 fine.

- Greg seconded motion

Opposed – none

Motion Carries

Penalty- Total penalty of \$500

- Fine Allocation

- o History – 0
- o Gravity - 0



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- Circumstance - \$250
- Culpability - \$250
- Other - 0

Discussion-

These reports are the same as the others, just less reports

Spectrum

Case # 332, 333, 334, 365, 366, 371, 374, 376 and 380

Case # 332 - (with above remaining cases bundled into violation/fine consideration)

Recusals – Chris Russ, Rick Gould

Violation-

Motion by Greg to batch these 9 cases together with a single notification of violations 87-121(b) with a penalty of a \$2,000 fine.

- Greg seconds motion

Opposed – none

Motion Carries

Penalty- Total penalty of \$2,000

- Fine Allocation
 - History – 0
 - Gravity - \$500
 - Circumstance - \$500
 - Culpability - \$500
 - Other - \$500

Discussion –

Spectrum letter shared. Letter looks like Spectrum was working with Hyper Networks. Louis said the statute requires a written agreement if it's going to be outside of the timeframe. If they didn't follow through and they don't have an agreement in writing, then they are in violation of 87-121(b).

Bundled case file reviews are complete – Now we will review single case files

Case #288

Recusals - Rufus, Chris Russ and Megan

This case file was reviewed during April board meeting but a delayed letter sent in by Wooten was received just after 30 day cut-off. Legal counsel advises case be re-visited taking the response from Wooten into consideration. Board reviewed response received from Wooten.

Violation-

Motion by Louis- Response doesn't change original findings; violation of 87-122(a) pipes plus training and \$2,000 penalty.

- Rick seconds motion

Opposed – none

Motion Carries

Penalty- Total penalty of \$2,000



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- Fine Allocation
 - o History – 0
 - o Gravity - \$500
 - o Circumstance - \$500
 - o Culpability - \$500
 - o Other - \$500

Discussion –

There was no personnel on site which would have been required since they were working in the vicinity of the marker, also ticket was not updated. Due to the proximity a representative would have been on site and if they were, this would not have happened. Rick and Freddie agree.

Case #289

Recusals - none

Violation-

Motion by Louis for violation of 87-122C9B and 87-122C9a1 without establishing a penalty at this moment. If there is a fine, he would like to see it as a separate motion.

- Rick seconds motion
- Freddie wants to amend motion for \$500 gravity and \$500 culpability with pipes plus training. Report does not name an individual.
- Tom West drop training and add additional fine of \$500 other.

Motion by Louis to amend his original motion for violation of 87-122(c)(9)(b) and 87-122(c)(9)a(1) to \$1500 without pipes plus.

- Freddie seconds motion
- Opposed – none
- Motion carries

Penalty- Total penalty of \$1,500

- Fine Allocation
 - o History – 0
 - o Gravity - \$500
 - o Circumstance - 0
 - o Culpability - \$500
 - o Other - \$500

Case #290

Recusals- Megan, Chris Russ, Rufus

Rick facilitating

Violation-

Motion by Louis- violation of 87-122(a) with pipes plus training and a financial penalty of \$1000; gravity of \$500 for the risk and \$500 for circumstances

- Rick seconds motion

Discussion- Tom wants to make sure they were not exempt, they are not. Also noted there was no response received to the initial letter sent out.

- Opposed – None
- Motion carries



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Penalty- Total penalty of \$1,000

- Fine Allocation
 - o History – 0
 - o Gravity - \$500
 - o Circumstance - \$500
 - o Culpability - 0
 - o Other - 0

Case #291

Recusals – None

Violation – Motion by Tom West, no violation due to insufficient evidence

- Rick seconds motion

Discussion – None

Opposed – None

Motion Carries

Case #337

Recusals – None

Violation – Motion by Louis violation of 87-122(a) with pipes plus training for Carl Bunton

- Chris Russ seconds motion

Discussion – There was no ticket pulled for this survey

Opposed – none

Motion Carries

Penalty – Pipes Plus training

Case #384

Recusals – None

Violation – Motion by Rick violation of 87-122(a) with pipes plus training for Alec Solis

- Louis seconds motion

Discussion – None

Opposed – None

Motion Carries

Penalty – Pipes Plus training

Case #385

Recusals – None

Violation – Motion by Louis violation of 87-122(a) with pipes plus training for Josh Bolen

- Freddie seconds motion

Discussion – None

Opposed – None

Motion Carries

Penalty – Pipes Plus training



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Case #386

Recusals - None

Violation - **Motion by Louis- no violation, insufficient evidence.**

- Megan seconds motion

Discussion – Whit asked if there was a ticket pulled by them or the neighboring property. It is difficult to tell where the property line is located. There is a picture that shows the pink flag as the survey for the property line, this shows that the excavation crosses the property line therefore there should be a ticket for both properties. It is obvious there is damage. Louis agrees it looks like they encroached on the neighboring property.

Motion by Louis to retract his original motion and enter a new motion for violation of 87-122(a) with pipes plus training recommended for David Coleman because they did not request a locate for the additional area they excavated in.

- Chriss Russ seconds changed motion.

Opposed – none

Motion carries

Penalty – Pipes Plus training

~Case File Reviews Complete~

Opportunity for Comments from the General Public – None

Meeting Adjourned 2:42pm

**NEXT Board Meeting -
Tuesday, October 19th, 2021**

Hybrid Meeting at NC811 Event Center in Greensboro with option for virtual viewing via Teams

Megan, the following was open discussion at the end of the board meeting. I don't necessarily think this should be part of the minutes. Please let me know if we should remove them, keep them or only keep some key information from the below.

OPEN DISCUSSION

Anything else board would like to discuss at this time.

- Tom West will be retiring from Colonia Pipeline at the end of the month. Board Admin will reach out to Governor's office to request appointment for new representative



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Louis extended appreciate to Cyndi and CHMS for their services. Commerce as well. He is very pleased with the way things have been going. Megan also wanted to show appreciation to Cyndi. Megan is pleased with level of professionalism and how Cyndi is taking so much off of her plate. Greg is also glad we brought Cyndi in, he can see things are moving smoother already. Juliane also needs a huge round of applause for moving the board forward with legal assistance.

Rick asked Megan if she still plans on stepping aside. Megan is going to finish her term. She will exit stage left when her term ends. No update and no-one has expressed interest in the position that she is aware of. Many on the board have satisfied (2) full 4-year terms. After September 2022 there will be a big switch of board members.

Greg wants to confirm the Chair is appointed by the Governor. Megan said the governor did not approach her. If you are interested, we can present to the governor as a board who we would like to elect as a chair.

Approved