

NORTH DAKOTA ONE-CALL BOARD OF DIRECTORS MEETING

November 17, 2005

The meeting was called to order by Chairman Mark Bittner at 10:02 am in the boardroom of the North Dakota Association of Telephone/Rural Electric Cooperatives building in Mandan.

Members present: Mark Bittner, Mark Dougherty, Chad Olson, Ron Ness, Jerry Blomeke, Ed Williams, and Perry Oberg. Director Darrell Wrege was absent.

Others present: Don Nett and Jim Holzer from One Call Concepts, Gloria Geiger from the Public Service Commission (PSC) staff, and Randal Loeslie, System Manager of Grand Forks Trail Water District.

At 10:05 am R.R. "Mac" McGillivray, Operations Director of the Dakota Region of the Northern Border Pipeline entered the meeting.

Agenda: Chairman Bittner asked if there were any additions or modifications to the agenda. Perry made a motion that the agenda be accepted as presented. Ed seconded the motion. Ayes all, motion carried.

Approval of previous minutes: Chairman Bittner asked for any additions or corrections to the minutes as presented. Jerry made a motion to approve the minutes as presented. Mark D. seconded. Motion approved.

Financial Report: Chairman Bittner asked Jerry if he had any comments on the report. Jerry stated that looking at the Net Worth Statement as of the end of October; it had a checking account balance of \$104,994.09. The Cash Flow Statement shows total inflows of \$55,528.90 and expenses of \$46,276.56 with net revenue of \$9,252.34.

Ron asked about a One Call Concepts deposit. Jerry stated that the amount was deposited after the end of the month and did not show on this report. There being no other questions, Mark B. asked for a motion to approve the financial report as presented. Perry made a motion to approve, and Ron seconded. Motion passed unanimously.

Approval of Bills: Chairman Bittner asked if there were any additional bills to be presented. Jerry stated that Don had given him a couple of bills before the meeting. One bill was advertising expenses the amount of \$17,787.05 for the period of August 1st through October 31, 2005. The other bill was an invoice for website maintenance for April through September 2005 for \$1,200.00.

Mark D. presented Jerry a bill in the amount of \$121.50 from Zuger, Kirmis, & Smith (Boards Attorney) for work completed on One Call Concepts contract review. Ron presented a statement for expenses incurred at the One Call Concepts Technology meeting in the amount of \$150.55. Perry made a motion and Jerry seconded to approve the bills as presented. Motion carried.

Pipeline Safety Grant Issues: Chairman Bittner asked Jim Holzer to provide an overview of the State Damage Prevention Laws comparative analysis report that was submitted by OCC. Jim explained that the data collection and analysis in the report was divided into three distinct phases. Phase one was a comparison of provisions contained in each law, phase two were stakeholder interviews and phase three was the gathering of damage statistics.

Jim explained that phase one was an analysis of state laws as it pertained to the specific areas that were outlined in the study. The penalties and enforcement, the requirements for pre-marking for an excavation, and how the different laws handle a survey/design requests. Jim said that they laid down the laws for the specific states that OCC operates in side by side and developed a matrix based on those criteria.

The second aspect was a lengthy interview faze of fifteen or sixteen different people from each of the different states. The process tried not to achieve a scientific overview somewhat like the pollsters attempt, but anecdotal information on how these people felt their laws worked and how they would change their law, if they could. This was included in the summary of the results. They also stated that there should be some type of flexible enforcement in the law.

The last issue, which was disappointing to Jim, was contacting each of the states and obtaining damage statistics to try to quantify whether white lining, for instance, helped in providing damage prevention. What was discovered was that most states do not have central depository for damage statistic information. Because of this, OCC was not able to compare each states law and say that one state law was better than another. OCC included a copy of each state law for the Board to review.

Jim asked the Board if there were any questions. Mark B. asked from Jim's perspective what direction North Dakota should proceed as far as introducing fines and penalties into the law. Jim stated that there should be some core group established to begin to develop a process on issues that need to be addressed. Jim stated that he had worked with a group in Oregon that identified two or three issues that they felt strongly about changing and met weekly, to begin with, to work through the process. They made sure that while this process was continuing that all entities involved were kept abreast of the developments for their input and concurrence. Jim said that this way all entities become a part of the process and feel they have some say into what is being decided.

Jim stated that in North Dakota there is this core group that is saying "this is what needs to be done with the law", but what he is hearing is "should we do something with the law." But he doesn't see someone saying, "This is what is wrong with our law and this is

what we need to do to change it.” Jim said all the goals: the white lining, the enforcement effort, and the design and survey locates; are good goals, but is there a willingness for someone to roll up their sleeves and do what is required to make these goals a part of the law.

Don introduced R.R “Mac” McGillivray who is the Operations Director for Northern Border Pipeline for the Dakota Region. He showed the Board maps of the coverage area of Northern Border Pipeline. Mac asked to speak with the Board on why he felt that North Dakota should introduce fines and penalties enforcement into the North Dakota law. He felt that in states that have some type of enforcement in place it is much easier for operators and entities to go after excavators that don’t follow the One-Call law or abuse it in some way.

Mark B. asked Mac if Northern Border has fewer near misses in the states that have enforcement in place. Mac stated that the only near miss that he had was in North Dakota.

Perry asked Jim if North Dakota was to implement enforcement, would OCC incur any additional costs through the Call Center and reflect a higher call ticket cost. Jim stated that generally no. It depends on how it is structured, but normally there is no additional expense.

Chad asked Mac to explain to the Board more detail on the near miss incident. Mac said that there was a One-Call ticket made about 30 days prior to construction by the contractor, Nygard Construction. Northern Border had met with them earlier and they had mapped out the proposed construction which was outside of their right-of-way. Because they were in the area of the pipeline, Northern Border checked on the contractor and found that they had changed the proposed location of the excavation. The contractor crossed the 42 inch pipeline the first time at eight feet deep, (the pipeline was at 12 feet) and was crossing it again when the dirt fell away from the pipeline with the last scoop they took. The pressure in the pipeline is 1435 pounds carrying about 2.2 billion cubic feet of product per day, which equates to \$25 million dollars of gas moving through the pipeline per day. Mac stated that the potential of loss in cases, such as these, is astronomical and enforcement is just a minor piece of what needs to be done to get these people’s attention.

Mac said that he called Glen Nygard, of Nygard Construction, about who had changed the proposed route and he was told that the engineer was to blame. When Mac called the engineer, he was told the decision to change the route was done in the field by the contractor. Mac stated that the whole idea with enforcement is not the money, but to get the attention of the contractor to educate his people to follow the One-Call law.

In South Dakota, the Board meets quarterly to review any enforcement claims. Petitions come in from underground facility operators or from contractors, that states that these companies or individuals are not paying attention to the law. The Board reviews the petitions as a group and assesses some penalty. The cap is \$1000 to \$5000 on these fines

depending on severity of the incident. The Board was given the power to access these fines by the Legislature. They bring in the effected parties to testify on the incident and then the Board committee decides what the fine will be accessed. The money is then used by the Board for education throughout the state.

Mac stated that he wrote the Legislation for fines and penalties for the state of Iowa. He was a lobbyist for two years to get it passed. Northern Border would like to be involved in the process in North Dakota. He feels that this legislation should be in place and they will help to implement it.

Jim stated that a number of the states in the survey use the pier review committee such as Oregon, Georgia, and Virginia. The idea is that you have people who are experts in the industry that are looking at these cases and are making a decision based on their knowledge of the situation. In Virginia, they had investigators who actually worked for the Office of Pipeline Safety and the State Corporation Commission. They processed the initial complaint and gather the information and then present it to the Advisory Panel.

Ed asked to make some observations after speaking with people about fines and penalties. The feedback he has gotten is that most of the people in the small communities which in has contact with, both the excavators and operators, do not have a strong feeling for enforcement. The reason being is that they are not running into a lot of problems. However, that said, one incident like what Mac has described gets national press and the safety laws are changed dramatically.

Mac stated that the Office of Pipeline Safety is put in the position where enforcement comes on a high level on their part, not necessarily because of the legislation, but of enforcement of compliance. They are audited all the time when the pipeline companies, are involved in occurrences which have gotten national attention. Because of some of these incidences, they are told they are not doing their job and need to come down harder on theses excavators.

Ed said the PSC is pressured to enact enforcement by the DOT. The DOT says that they are going to promote enforcement at the state level. They have a list of things that they want done and if the PSC is following the list, then the DOT will finance or put out additional monies. So, that is part of what is driving this legislation.

Jerry stated that most of the problems they have is with small excavators that feel they don't have to follow the law. His feeling is that if enforcement will get these people's attention or pushes them out of business, then he is supportive of doing this type of legislation.

Jim stated that when you deal with the issue of fines and penalties, there are two things that people are most concerned about. One is trust of the person who is going to do the enforcement and the people involved in the situation. The other is the perception of fairness in implementing the enforcement. So, the enforcement needs to be shown to be the same for all concerned.

Mark D. said that one issue that he has because of his dealings with the legislators, is that they are going to ask how much damage has been caused because there is no enforcement law. They are going to want data. What he is hearing is that we really don't have any data or information to support us instigating this type of enforcement.

Don stated that in the state we have asked the operators to furnish One-Call with their damage reports, but there was only one company that turned in damages. At the pipeline safety meeting that we have in North Dakota and South Dakota every year, Al Moch has asked operators to please turn in their damage reports, but not one damage report was submitted.

Don said that since 2000, he has sent out 100 certified letters because of damage complaints which he has received. Most have gotten the attention of the excavators, but 50% have been to those that call in an emergency locates when it really isn't an emergency.

Mark B. asked if it is the consensus of the Board to open the law and legislate enforcement. He stated that it was a concern previously that opening the law might cause other things to be changed in the law. After much more discussion, it was decided to move forward with enacting some type of enforcement into the law.

Don stated that he would be working with Gloria to provide a Grant Effectiveness Report. He said that the report would have to be completed soon. The report is to discuss the effectiveness of the advertising that One-Call is now doing.

Gloria said that she is not impressed with theater advertising. She stated that the PSC doesn't get any positive feedback on the ads. She discussed the problems she is having with theater advertising and her disappointment in dealing with the people involved in the movie theaters. Gloria said that the staff attorney spends a lot of time and has a lot of time in negotiating with these people.

Ron stated that he felt the theater advertising was a good thing. But, maybe it has serviced its purpose and should be suspended for a few years. Don stated that over the past year the number of home owners and farmers calling into the One-Call center has increased 35%. Something has triggered this increase in call volumes.

Gloria also discussed the new grant application. Gloria will find out when the application is due and e-mail Mark B. on what is to be included in the application. The existing grant money amount was for \$34,882. The total expenditures were \$34,162 for advertising expenses of \$18,162 and the consultant cost of \$16,000.

Gloria left the meeting at 11:47 am.

Randy Loeslie, System Manager of the Grand Forks Trill Water District was at the meeting to discuss the decision the Board had made previously on Place Name Blocking.

Randy stated that in the past 6 months they have received 1219 locate tickets. Of these tickets 450 were within the city of Grand Forks which is not in their coverage area. He stated that it is not the money that is a concern, but the time involved in processing these tickets. He was concerned that the One Call Center's mapping is not up-to-date and that is why they are receiving these out-of-area locates. They received locates in downtown Grand Forks which is 4 miles away from any facility that they have in the area.

After much discussion, it was decided that Place Name Blocking was not the concern that Randy was having difficulty with, but the number of the out-of-area locates that his company is receiving from the Call Center.

Don asked Randy to submit out-of-area locates for the One-Call Center to review to see if they could adjust the polygon to eliminate some of these locates. Randy agreed to work with Don and the Center to see what could be done to resolve this issue.

Randy left the meeting at 11:55 am.

Mac thanked the Board for allowing him to address the board. He stated that if there was anything else that Northern Border or Pipeline Safety could do to help in implementation of enforcement to please contact him.

Mac left the meeting and the Board adjourned for lunch at 11:58 am.

The Board reconvened the meeting at 12:30 pm.

Mark B. asked what the next steps would be in implementing legislation. Jim stated that a proposal should be written for a facilitator to work with everyone involved to determine what should be in the law.

Ron stated that the legislation should be set up to draft the law as simply as possible, but do it so that administrative rules can be added as needed. This would allow things to be changed, but not make it necessary to go back to the legislature. It was the consensus that a review committee of the Board be set up to administer the law and not make it the responsibility of the PSC. In South Dakota, the Board is a state agency which is appointed by the Governor after nomination by the representative groups. This issue would have to be addressed as part of this legislation.

After much discussion on the subject, Mark D. stated that he would coordinate a rough draft of language that the Board could review. He will have this draft ready by December 1st. The Board asked Jim to put together a proposal through OCC for becoming a facilitator for this legislation. Jim stated that he could possibly have this ready by mid-December.

Dial 811 Implementation: Chad stated that he has visited with all of the telephone companies in the state and asked them about a time-table for conversion. At this time it is Chad's understanding that there are two companies that have done the conversion:

Dickey Rural and Qwest. Red River Telephone is planning on doing the conversion on January 1, 2006. Jim stated that OCC has set up a separate number for 811 calls coming into the call center. Chad will send contact information to Jim for companies that have converted, so that Jim can give them the new number.

Chad said that the remaining companies are prepared to implement 811, but will not convert until they are given some type of mandate by the Board or the PSC. There are some telephone companies that would like to wait until their new directories are sent out. The PSC stated at the hearing that Mark D. and Chad attended that they would like the Board to decide the timeline of implementation and notify the Commission as it evolves.

Jim stated that Qwest had filed a tariff to charge for implementation of 811. Chad said that Mel Kambeitz had originally stated that Qwest would not be charging for the conversion, but has since changed that statement. Chad stated that he would check with the PSC to see if a tariff had been filed with the Commission.

Chad expressed to the Board that there were three telephone companies in the state that have an existing tariff in which they charge for this type of implementation. The highest charge that was conveyed to Chad was \$280.00.

Don asked if the Board was going to advertise 811 and the 800 number. It was agreed that both would be advertised for the coming year.

Chad asked what date that the Board would like to set for 811 implementation. Mark D. made a motion to set July 1, 2006 as a date that all telephone companies have 811 conversion completed. Jerry seconded. The motion passed unanimously.

Chad stated that he would contact all of the telephone companies in the state of the date. He will also contact the PSC and inform them of proposed timeline.

Old Business: Mark B. asked if there was any more discussion as far as the Attorney General's opinion as to tree planting. The Board was not happy with the decision, but without changing the law, had to live with the determination.

Mark B. discussed the collection issue update which has to do with Palmer Mobil Home Park and their refusal to pay the billing. Mark stated that Mr. Palmer asked for more information as far as the tickets, which Mark provided.

Mr. Palmer told Mark that he had contacted MDU about them taking over locate responsibilities as far as the pipeline in question. Mr. Palmer was wondering if the Board was satisfied with that. Mark stated to Mr. Palmer that this was between him and MDU, as long as someone has the pipeline in their service territory to receive locates. Jim asked if he was asking to be absolved of what he owes for doing this. Mark said that that was not discussed.

Jerry asked Ed if MDU had been contacted about taking over the master meter. Ed stated that he was not aware if Mr. Palmer contacted MDU or if they would be willing to take over the responsibility of the pipeline. Mark B. will respond to Mr. Palmer about what was discussed by the Board.

New Business: Mark B. stated that he has updated the operations center contract renewal with the help of the Board attorney and previous discussion by the Board. The only addition to the contract that has not been discussed was inclusion of a design/survey ticket.

Mark B. asked if there are any other items that need to be revised or added as part of the contract renewal. The design/survey ticket was discussed. Jim stated that to utilize the design ticket a different header would need to be set up, but he didn't feel there would be any additional cost. It was decided to leave it in the contract.

Mark B. said that on Page 4 in regard to Out-of-Area locates, it was decided at the last meeting to have Jim provide a copy of Gopher State's Out-of-Area locates. At the last meeting, the Board decided to leave the language as it is written. Mark B. asked if the Board wanted to make any changes. There being no other comments, the language is to remain unchanged.

Ron had made a suggestion that the Board set a meeting for sometime in January to discuss all of the issues that are before the Board. Ron asked Jim about when the Board would receive the cost proposal from OCC about the contract renewal. Jim didn't think that it would be available until after the middle of January. Mark B. said that he would e-mail the response to the Board as soon as he received it. After discussion by the Board, it was decided that scheduling another meeting was not necessary at this time. If one was needed, it could be set up during the Locator's Association meeting at the Ramkota on January 4th.

Mark B. asked whose term was up on the Board. Don said that Ron and Jerry terms were ending in 2005.

Jerry left the meeting at 1:58 pm.

Mark B. said that on Page 14 the language was added that "No individual caller shall be on hold for more than 180 seconds." On Page 17, "The In-State Representative shall attend all scheduled Board meetings. The Call Center operations manager shall attend Board meetings as needed and be available via conference call for specific periods during all scheduled Board meetings." Mark D. had asked the Board's attorney to review the insurance requirements and the changes have been reflected in the contract renewal. Mark D. made a motion to accept the contract renewal as updated. Perry seconded. Mark B. asked if there was any more discussion. Ron asked about the 180 second hold time would be an issue with OCC. Jim stated that he didn't know what other contracts read, but he was sure this would be the most stringent.

Mark D. amended the motion to approve the renewal of the contract, by removing the 180 second hold time statement and making it an option to the contract. Ed seconded the amended motion. The motion carried.

Ron was asked about secondary locates and if it needed to be discussed by the Board. Ron felt that this was not an issue at this time, but might be brought up later. Ron just wanted the Board to be aware of his conversations with John Rodgers and some of the problems that do arise with underground facilities owned by homeowners. Don said that he would have a poster made to show some of these facilities for display at the home shows. This would be an excellent tool for education of the homeowners.

Ron had previously submitted his OCC Technology report. Mark B. asked if there were any questions or comments by the Board. Jim stated that at the next meeting there would be a power-point presentation on how Google maps would be incorporated. This was a topic that came from the meeting.

Ron asked how it was decided who remains on the Board when their term is up. Mark B. said that it was up to the individual core groups to decide who or when a change would be made to the Board.

Mark B. asked for volunteers for a nominating committee for appointment of officers. Chad and Mark D. volunteered to be on the nomination committee.

Operation Center Report: Don stated that there was a mistake on the incoming calls report that was presented. On the October I-Tic report it showed 60, but the number should be 1,209. Don also explained that tickets-on-line would be eliminated and the report would show just I-Tic.

Don stated that the operator call volumes, contractor call volumes and the other call volumes have increased because of the number of farmers and homeowners who are now calling in for locates. Don feels that this is a result of the TV advertising, the theater ads, or both.

Don reported that the I-Tic has increased but the evolution will take time. He has only had one I-Tic training class since the last meeting, but this should start after the ground freezes up and the construction stops for the season.

Don Nett Reports: Don reviewed the advertising budget expenditures for 2005. The total approved budget was \$42,750 and to date total expenditures are \$34,845.30. Don explained that there will be about \$5,000 yet to be spent on item expenses, but we will still be within the budget.

Don presented the advertising budget for 2006. For promotional items a cost of \$10,000; magazines and other print - \$2,000; trade show expenses of \$4,000; and radio, billboard, and TV advertising of \$27,500 for a total budget of \$43,500. Perry made a motion to approve the budget as presented. Ron seconded the motion. Mark D. asked if the theater

ads were included in the budget. Don explained that the theater advertising was done with grant monies and was not a part of this budget. There being no further questions, the motion was unanimously approved.

Don said that he did receive a new tape from Cable One. This is a 30 second ad for the board to review, but he did not get a video recorder to show it. Don will have it for review at the next meeting.

Don has ordered 42 cookbooks that are part of the 2005 budget. These will be sold for \$10 each and all proceeds will go to Hurricane Relief.

Don presented the list of meeting and presentations for 2005. The amount of contractor's dinners and I-Tic training has increased significantly over the past year. On the list provided there were 73 meetings attended for this purpose by Don in 2005. Don stated that North Dakota Pipeline Association has added 17 meetings that will be held in North Dakota beginning in January that they would like him to attend.

Jim left the meeting at 2:52 pm.

Don said that he was still looking for some type of give-away for the Contractor's dinners. He needs to stay with something under \$2.00 each, so a decision has not been made as yet. Don asked the Board if they were still willing to contribute \$100 to each contractor's dinner with a limit of \$2,000. The Board agreed to continue with this donation.

Don asked the Board what issues that they wanted him to cover at these meetings. The Board suggested a continued discussion of white flagging, proposed One-Call legislation, and call before you dig. Ron asked that the excavators should be told that if you nick a cable while in the process of digging, that you should notify the operator. Chad suggested that the excavators clean up the excavation site and remove all of the flags after the job is completed.

Don explained that he was running short of white flags and would obtain a quote on 100,000 flags. After more discussion, it was agreed that Don order white flags and some type of trinket to hand out at these meetings. Don will have his budget revised to reflect these changes for the Board's approval.

Don discussed the Locator's Association meeting to be held on January 4, 2006. The Board presentation is scheduled for 3:00 pm.

Don presented a letter that he received from Steve Schultz from Jamestown on a bill that was sent from MDU. The Board reviewed the bill and letter. After some discussion, it was decided not to respond, because of the lack of information provided.

Don reported there is a CGA meeting in March. CGA will pay for the flight and a per diem. He asked if the Board would be willing to pay any other expenses. The Board agreed to pay, if it works with Don's schedule.

To review items for next meeting, Mark B. said he will modify the contract renewal. Mark D. will work on the draft legislation, OCC will put together a facilitator proposal, and Chad will contact the PSC on a possible Qwest tariff and contact the PSC on the July 1, 2006 conversion date for 811. Mark B. will also put together a list of future Board meetings.

The meeting was adjourned at 3:15 pm.

Submitted by Chad Olson, Secretary

Chairman, Mark Bittner

Signature

Signature

Date

Date