

# Mn/DOT Utility Dispute Resolution Process

## Summary Description

10.12.10

### **Step 1: Utility Identification**

If the utility owner does not respond to the Gopher State One Call (GSOC) in writing or by field locate, the Project Manager sends Utility Identification Letter immediately after the legally-mandated 15-business day response period. The Utility Identification Letter asks for a response within five business days.

If utility owner fails to respond to GSOC and Utility Identification Letter, the Project Manager contacts the Utility Unit the day after the deadline in the Utility Identification Letter expires.

If the utility is an underground facility, the Utility Unit calls utility owner immediately and notifies them that Mn/DOT may contact Office of Pipeline Safety about their non-compliance.

Utilities Engineer contacts Office of Pipeline Safety one day after the initial call if the information is not received.

Office of Pipeline Safety then takes action on non-compliance, which may include a penalty or fine.

Project Manager continues coordination, moves to the next step, and documents action.

### **Step 2: Utility Contact for Coordination**

If there is no response from utility owner by the deadline in the letter, the Utility Unit follows up with call, fax, or e-mail immediately.

### **Step 3: Utility Information Meeting**

If utility owner does not attend the Utility Information Meeting, Project Manager calls to set up individual phone or in-person meeting with utility owner.

If utility owner does not respond to phone call, Project Manager contacts the Utility Unit.

The Utility Unit contacts utility owner and reminds them of state legal requirements.

Project Manager continues coordination, moves to the next step, and documents action.

#### **Step 4: Review of Information from Utility Owner**

If the utility owner does not respond to requests for corrections or additional information, Project Manager calls to set up individual phone or in-person meeting with utility owner.

If utility owner does not respond to phone call, Project Manager contacts the Utility Unit.

The Utility Unit contacts utility owner and reminds them of state legal requirements.

Project Manager continues coordination, moves to the next step, and documents action.

#### **Step 5: Utility Design Meeting**

If utility owner does not attend the Utility Design Meeting, Project Manager calls to set up individual phone or in-person meeting with utility owner.

If utility owner does not respond to phone call and if Project Manager and other district staff are not able to get the utility owner to respond, Project Manager contacts the Utility Unit.

The Utility Unit contacts utility owner, reminds them of the state statute, and notifies them that Mn/DOT will contact Office of Pipeline Safety about their non-compliance.

Office of Pipeline Safety then takes action on non-compliance, which may include a penalty or fine.

If utility owners of overhead facilities are not cooperative, the Utility Unit determines if escalation is needed and to whom.

Project Manager continues coordination, moves to the next step, and documents action.

### **Step 6: Request for Utility Relocation Plans**

If utility owner fails to respond by the deadline, Project Manager calls to set up individual phone or in-person meeting with utility owner.

If utility owner does not respond to the phone call or offers an unsatisfactory response, and if Project Manager and other district staff are not able to get the utility owner to respond, Project Manager contacts the Utility Unit.

The Utility Unit and Project Manager discuss possibilities for resolution.

Project Manager arranges a conference call or meeting between the Utility Unit, Project Manager, Utility Owner Contact or Designee, Utility Field Engineer, and Construction Engineer to explore resolution.

If utility owner doesn't respond to the call or if there is no resolution during the meeting, then Project Manager and the Utility Unit discuss other alternatives, including issuing Notice and Order for additional leverage.

If the utility owner does not respond to the Notice and Order, see Step 12 for additional actions.

Project Manager continues coordination, moves to the next step, and documents action.

### **Step 7: Utility Coordination Follow Up**

If the utility owner does not respond to requests for additional information, Project Manager calls to set up individual phone or in-person meeting with utility owner.

If utility owner does not respond to the phone call or offers an unsatisfactory response, and if Project Manager and other district staff are not able to get utility owner to respond, Project Manager contacts the Utility Unit.

The Utility Unit and Project Manager discuss possibilities for resolution.

Project Manager arranges a conference call or meeting between the Utility Unit, Project Manager, Utility Owner Contact or Designee, Utility Field Engineer, and Construction Engineer to explore resolution.

If utility owner doesn't respond to the call or if there is no resolution during the meeting, then Project Manager and the Utility Unit discuss other alternatives, including issuing Notice and Order for additional leverage.

If the utility owner does not respond to the Notice and Order, see Step 12 for additional actions.

Project Manager continues coordination, moves to the next step, and documents action.

### **Step 8: Utility Design Change Meeting**

If utility owner does not attend the Utility Design Change Meeting, Project Manager calls to set up individual phone or in-person meeting with utility owner.

If utility owner does not respond to phone call and if Project Manager and other district staff are not able to get the utility owner to respond, Project Manager contacts Utility Unit.

The Utility Unit and Project Manager discuss possibilities for resolution.

Project Manager arranges a conference call or meeting between Utility Unit, Project Manager, Utility Owner Contact or Designee, Utility Field Engineer, and Construction Engineer to explore resolution.

If utility owner doesn't respond to the call or if there is no resolution during the meeting, then Project Manager and Utility Unit discuss other alternatives, including issuing Notice and Order for additional leverage.

If the utility owner does not respond to the Notice and Order, see Step 12 for additional actions.

Project Manager continues coordination, moves to the next step, and documents actions.

### **Step 9: Gopher State One Call Utility Verification**

If utility owner does not respond, Project Manager contacts the utility owner.

If utility owner does not respond to phone call, Project Manager contacts Utility Unit.

If the utility is an underground facility, the Utility Unit calls utility owner immediately and notifies them that Mn/DOT may contact Office of Pipeline Safety about their non-compliance.

Utilities Engineer contacts Office of Pipeline Safety one day after the initial call if the information is not received.

Office of Pipeline Safety then takes action on non-compliance, which may include a penalty or fine.

If utility owners of overhead facilities are not cooperative, the Utility Unit determines if escalation is needed and to whom.

Project Manager continues coordination, moves to the next step, and documents action.

### **Step 10: Review of Utility Relocation Plans and Schedule**

If utility owner does not make the necessary corrections, Project Manager contacts the utility owner.

If utility owner does not respond and if Project Manager and other district staff are not able to get the utility owner to respond, Project Manager contacts the Utility Unit.

The Utility Unit contacts the utility owner.

If the utility owner does not respond to the Utility Unit or there is no resolution to issues, the Utility Unit may raise the issue through the defined escalation levels or may issue a Notice and Order.

Project Manager continues coordination, moves to the next step, and documents action.

### **Step 11: Reimbursements and Agreements**

If the utility owner does not respond or cooperate, the Utility Unit contacts the utility owner and explains their responsibility for delay claims if they refuse to move.

If utility owner does not agree with a reimbursement decision, Utility Unit may contact Attorney General's Office for an opinion.

The Utility Unit also may consult the Federal Highway Administration on accommodation issues.

The Utility Unit contacts the utility owner with the decision.

If the utility owner does not agree with decision, the Utility Unit works with utility owner to move forward or may decide to confer with legal counsel regarding appropriate legal remedies.

The Utility Unit brings consideration of legal action through the escalation levels as appropriate.

### **Step 12: Notice and Order and Utility Relocation Permit**

If the utility owner does not respond as required in the Notice and Order, Project Manager contacts the utility owner and reminds them of the importance of compliance.

If the utility owner does not respond or cooperate, Project Manager contacts the Utility Unit.

The Utility Unit confers with legal counsel on options.

Depending on recommendations of legal counsel, the Utility Unit consults with the levels of escalation on options to determine appropriate choice.

Project Manager continues coordination, moves to the next step, and documents action.

### **Step 13: Utility Information in Contract Documents**

If the utility owner does not respond to requests for corrections, Project Manger contacts the utility owner.

If the utility owner does not respond and if Project Manager and other district staff are not able to get the utility owner to respond, Project Manager contacts the Utility Unit.

The Utility Unit contacts the utility owner and may decide to escalate the issue if non-cooperation causes significant impact on the project.

Project Manager continues coordination, moves to the next step, and documents action.

## **Step 14: Construction**

If utility owner does not attend pre-construction coordination meeting, Construction Group follows up with utility owner. Include the primary contact in the invitation.

If the utility owner remains unresponsive and if Project Engineer and other district staff are not able to get the utility owner to respond, the Construction Group contacts the Utility Unit.

If the utility is an underground facility, the Utility Unit decides whether to contact utility owner or the Minnesota Office of Pipeline Safety, which then takes action on non-compliance that may include a penalty or fine.

If utility owners of overhead facilities are not cooperative, the Utility Unit determines if escalation is needed and to whom.

If utility owner does not cooperate in the field, Mn/DOT follows a series of steps in case of utility delays:

- At the first indication of delay in the field, the Construction Group and the contractor document the situation in the project files and discuss the issue with the utility owner's main contact.
- The Construction Group notifies the contractor about discussions with utility owners regarding changes in schedule by the utility owner. If the contractor indicates that the delay will impact the project, the Construction Group reminds the contractor of the claim notification language in the contract. The contractor is responsible for providing written claim notification to Mn/DOT. The contractor is still responsible for coordinating with utility owners.
- After receiving the contractor's notice, the Construction Group sends a letter to the utility owner, which indicates that contractor delay costs will be assessed if the utility relocation/adjustment is not completed on schedule. The Construction Group also sends a copy of the letter to the prime contractor and the Utilities Engineer.
- The Construction Group reviews the project history to ensure that Mn/DOT has complied with the utility coordination process.
- The Construction Group then determines the most appropriate action for the project. If the work by the utility owner directly results in a delay to the progress of the controlling operation, the Construction Group will determine how to resolve the delay through entitlement, impact, or cost practices.
- The Construction Group will order the contractor to continue working around the utility in cases where the construction work cannot be suspended, or where it can proceed at a slower pace without serious impact to the project schedule.

- The Construction Group forwards a copy of the contractor's claim settlement agreement to the Utilities Engineer and the Office of Construction and Innovative Contracting for appropriate action.
- After completion of work and calculation of costs, the Construction Group meets with the Contract Administration Engineer, the Utilities Engineer, and a representative from the Attorney General's Office to determine cost recovery steps.
- The Construction Group forwards a copy of all documentation and letters to the Utilities Engineer.
- The Utilities Engineer determines future steps and actions to prevent future delays.

### **Step 15: Close Out**

If the utility owner does not send an invoice, the Utility Unit contacts the utility owner. If the utility owner does not respond within 90 days, the Utility Unit may close out the file or follow-up with the utility owner.

If the utility owner receives a citation, and utility owner does not agree with citation, the Utility Unit and utility owner begin negotiations. The Utility Unit determines if escalation is needed and to whom.