#### STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

ORIGINAL

IN THE MATTER OF AN ORDER ) APPROVING **ADVISORY** COMMITTEE ) RECOMMENDATIONS PURSUANT TO ) **INDIANA CODE CHAPTER 8-1-26.** )

APPROVED:

OCT 2 4 2012

#### **ORDER OF THE COMMISSION**

Indiana Code chapter 8-1-26 provides the procedure for the Indiana Utility Regulatory Commission's Pipeline Safety Division ("Division") to find violations of said chapter. Upon review of those findings, the Indiana Underground Plant Protection Advisory Committee ("Advisory Committee") reviews those recommendations and recommends civil penalties in the Case.

The Cases received pursuant to Indiana Code chapter 8-1-26 and ripe for Commission action are attached hereto and collectively referred to as the Advisory Committee Recommendations.

Pursuant to statute, the Advisory Committee has submitted their recommendations to the Commission. The Commission hereby UPHOLDS the findings of violations by the Pipeline Safety Division and APPROVES the recommendations of the Advisory Committee as listed on the attached pages. The Assistant General Counsel to the Division is hereby directed to prepare and send notice to the parties advising them of the determination.

#### IT IS SO ORDERED.

#### ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR; MAYS NOT PARTICIPATING IN THOSE MATTERS INVOLVING VECTREN:

APPROVED: 0CT 2 4 2012

I hereby certify that the above is a true and correct copy of the Order as approved.

Brenda A. Howe Secretary to the Commission





http://www.in.gov/iurc Office: (317) 232-2701 Facsimile: (317) 232-6758

- TO: Chairman James D. Atterholt Commissioners Ziegner, Landis, Mays, and Bennett
- FROM: DeAnna Poon, Assistant General Counsel and Legal Counsel to the Underground Plant Protection Advisory Committee

DATE: October 19, 2012

RE: Underground Plant Protection Advisory Committee Case Recommendations for Conference on *Wednesday, October 24, 2012 @ 1:30 P.M local time.* 

The attached case recommendations have been submitted to the Commission. Via Certified Mail, the Commission's Pipeline Safety Division sent an information request to the parties to the incident soliciting a written account of the facts and circumstances surrounding the incident. After receiving proof of delivery and waiting at least thirty (30) days for the receipt of any documents from the parties, the Division investigated the case. Pursuant to IC 8-1-26-23(g), the Division found that a violation of IC 8-1-26 occurred. After public notice in conformance with IC 5-4-1.5-5, during a Public Meeting where the party had the opportunity to appear, the Underground Plant Protection Advisory Committee reviewed the Division's determination and made recommendations in the cases under IC 8-1-26-23(h). The parties were notified of the Committee's recommendations and given the opportunity to seek a public hearing pursuant to IC 8-1-26-23(k). These recommendations are now submitted for the Commission's consideration at Conference on October 24, 2012 at 1:30 pm. local time. Staff believes legal requirements under IC 8-1-26, the Damages to Underground Facilities Act, were met and recommends approval for all the recommendations of the attached cases. The Commission has the authority under IC 8-1-1-5(d) to make a determination in these matters.

Respondent: Other Party: Case No.: Date of Advisory Meeting:	Austgen Equipment Inco NIPSCO 3003 August 28, 2012	orporated
Statutes Allegedly Violated <ol> <li>IC 8-1-26-20(b): Failure to mai mechanized Equipment</li> <li></li> <li></li> </ol>	ntain two (2) feet clearance with	Violation No Violation Violation No Violation Violation No Violation
Recommended Penalty: 1. <u>Training</u> 2. <u> </u> 3. <u> </u> Additional Information: <u> </u>		
APPROVED: Rick Slagle (initialed) Chairman		

Respondent:	Dave O'Mara Contractor	r. Inc.
Other Party:	Vectren	
Case No.:	3111	
Date of Advisory Meeting:		
Statutes Allegedly Violated	1:	
1. IC 8-1-26-20(b): Failure to main mechanized Equipment	intain two (2) feet clearance with	Violation No Violation
2		Violation No Violation
3		Violation No Violation
Recommended Penalty:		
1. Training 2.		
2.		
3.		
Additional Information: S	lagle absta	ins.
APPROVED: (initialed) Rick Slagle Chairman		

lill T Excavating
IPSCO
995
ugust 28, 2012

Statutes Allegedly Violated:	
1. IC 8-1-26-16(g): Failure to provide notice of excavation	Violation No Violation
2	Violation No Violation
3	Violation No Violation

Recommended	Penalty:

1.	HORE	Training	
2.			
3.			

Additional	Information:
------------	--------------

APPROVED: Rick Slagle (initialed) Chairman

Respondent: Other Party: Case No.: Date of Advisory Meeting:	Hill T Excavating NIPSCO 2993 August 28, 2012	
Statutes Allegedly Violated 1. IC 8-1-26-20(b): Failure to main mechanized Equipment 2 3	ntain two (2) feet clearance with	Violation No Violation Violation No Violation Violation No Violation
Recommended Penalty: 1. <u>Training</u> 2. <u>.</u> 3		

Additional Information:





Respondent:	NIPSCO
Other Party:	Selge Construction Company, Inc.
Case No.:	2984
Date of Advisory Meeting:	August 28, 2012

Statutes Alle	gedly	Vio	lated:
---------------	-------	-----	--------

1. IC 8-1-26-18(f): Failure to properly locate facilities	Violation No Violation
2	Violation No Violation
3.	Violation No Violation

#### Recommended Penalty:

1.	Training	
2.		
3.		

Additional Information:	Additional	Information:
-------------------------	------------	--------------

APPROVED: Rick Slagle (initialed) Chairman

Respondent:	NIPSCO
Other Party:	NIPSCO
Case No.:	2914
Date of Advisory Meeting:	August 28, 2012

#### Statutes Allegedly Violated:

1. IC 8-1-26-20(b): Failure to maintain two (2) feet cl	learance with
mechanized Equipment	Violation No Violation
2	Violation No Violation
3	Violation No Violation

Recommended Penalty: 1. Marning Jetter 2. 3. \_\_\_\_\_

#### Additional Information:

APPROVED: (initialed)



Respondent:	NIPSCO
Other Party:	<b>Asplundh Construction</b>
Case No.:	2915
Date of Advisory Meeting:	August 28, 2012

Statutes Allegedly Violated:	
1. IC 8-1-26-18(f): Failure to properly locate facilities	Violation No Violation
2	Violation No Violation
3	Violation No Violation

#### Recommended Penalty:

1.	Warnina	letter	
2.			
3.			

Additional Information:

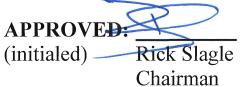
APPROVED: 🕂 Rick Slagle (initialed) Chairman

Respondent:	Frank Cigan
Other Party:	NIPSCO
Case No.:	2921
Date of Advisory Meeting:	August 28, 2012

Statutes Allegedly Violated:	$\frown$
1. IC 8-1-26-16(g): Failure to provide notice of excavation	Violation No Violation
2	Violation No Violation
3	Violation No Violation

Recommended Penalty:		
1. Warning	etter	
2.	· · · · · ·	
3.		

Additional Information:		
· · · · · · · · · · · · · · · · · · ·		
	· · ·	



Respondent: Other Party: Case No.: Date of Advisory Meeting:	Matthew Johnson NIPSCO 2925 August 28, 2012	
Statutes Allegedly Violated		
<ol> <li>IC 8-1-26-20(b): Failure to ma mechanized Equipment</li> <li></li> <li></li> </ol>		Violation No Violation Violation No Violation Violation No Violation
Recommended Penalty: 1. <u>Warning leffe</u> 2 3		
Additional Information:		
	а.	

APPROVED: (initialed) Rick Slagle Chairman

Respondent:	<b>Troy Scott</b>
Other Party:	NIPSCO
Case No.:	2926
Date of Advisory Meeting:	August 28, 2012

Statutes Allegedly Violate	d:
----------------------------	----

1. IC 8-1-26-16(g): Failure to p	provide notice of excavation	Violation No Violation
2.		Violation No Violation
3.		Violation No Violation

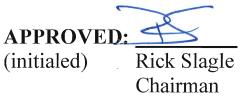
#### Recommended Penalty:

1.	Warning	etter	_	
2.				
3.				

Additional	Information:
------------	--------------

APPROVED: Rick Slagle (initialed) Chairman

Respondent: Other Party: Case No.: Date of Advisory Meetin	Raymond Chapel NIPSCO 2927 g: August 28, 2012	
Statutes Allegedly Violat 1. IC 8-1-26-16(g): Failure to p 2 3	provide notice of excavation	Violation No Violation Violation No Violation Violation No Violation
Recommended Penalty: 1. Warning 2 3		
Additional Information:		



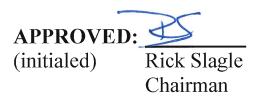
Respondent:	<b>City of Bluffton Parks Department</b>
Other Party:	NIPSCO
Case No.:	2928
Date of Advisory Meeting:	August 28, 2012

Statutes Allegedly Violated:	
1. IC 8-1-26-16(g): Failure to provide notice of excavation	Violation No Violation
2.	Violation No Violation
3	Violation No Violation

#### Recommended Penalty:

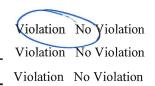
1.	Warning	Pter	
2.	J		
3.			

	Additional	Information:
--	------------	--------------



Respondent:	Lone Star Concrete
Other Party:	NIPSCO
Case No.:	2929
Date of Advisory Meeting:	August 28, 2012

#### Statutes Allegedly Violated:



Recommended Pen	alty:	
1. Warning	letter.	
2.	)	
3.		

# Additional Information:



Respondent:	Berry-It, Inc.
Other Party:	NIPSCO
Case No.:	2942
Date of Advisory Meeting:	August 28, 2012

#### Statutes Allegedly Violated:

1. 1	IC 8-1-26-20(b): Failure to maintain two (2) feet clearance with	
J	mechanized Equipment	Violation No Violation
2.		Violation No Violation
3.		Violation No Violation

Recommended Penalty: 1. Warning letter 2. letter 3. \_\_\_\_\_

Additional Information:

APPROVED: (initialed) **Rick Slagle** Chairman

Respondent:	Scott Parrish
Other Party:	NIPSCO
Case No.:	2955
Date of Advisory Meeting:	August 28, 2012

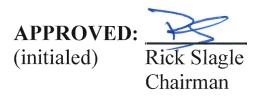
Statutes Allegedly Violated:	
1. IC 8-1-26-16(g): Failure to provide notice of excavation	Violation No Violation
2	Violation No Violation
3	Violation No Violation

Recommended Penalty:	

1.00	commended i charcy.			
1.	Warning	letter		 
2.				
3.			_	

Additional Information:		

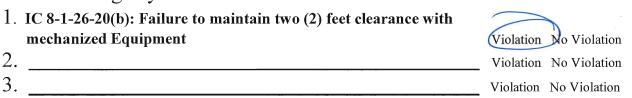
\_\_\_\_



Respondent:	Paragon Landscape
Other Party:	NIPSCO
Case No.:	2956
Date of Advisory Meeting:	August 28, 2012

#### Statutes Allegedly Violated:

1. IC 8-1-26-20(b): Failure to maintain two (2) feet clearance with mechanized Equipment 2. \_\_\_\_\_



Rec	commended Penalty:		
1.	Warnha 1	afer	
2.	5		
3.			

Additional Information:

**APPROVED:** (initialed)



Respondent:	Centurylink
Other Party:	NIPSCO
Case No.:	2957
Date of Advisory Meeting:	August 28, 2012

Statutes Allegedly Violated:	
1. IC 8-1-26-16(g): Failure to provide notice of excavation	Violation No Violation
2	Violation No Violation
3	Violation No Violation

Red	commended Pena	lty:	
1.	Warnha	Jetter	
2.		)	
3.	-		

Additional I	nformation:		
	_		
APPROVEI (initialed)	D: Rick Slagle Chairman		

Respondent:	Arrow Fence Company, Inc.
Other Party:	NIPSCO
Case No.:	2959
Date of Advisory Meeting:	August 28, 2012

#### Statutes Allegedly Violated:

1. IC 8-1-26-20(b): Failure to maintain two (2) feet clearance with	th
mechanized Equipment	Violation No Violation
2	Violation No Violation
3	Violation No Violation

Recommended Penalty: 1. <u>Warning</u> letter 3. \_\_\_\_\_ 

\_\_\_\_\_

Additional Information:



Respondent: Other Party: Case No.: Date of Advisory Meeting:	Fairfield Contractors Inc. Vectren 2964 August 28, 2012	
<ul> <li>Statutes Allegedly Violated</li> <li>1. IC 8-1-26-20(b): Failure to mai mechanized Equipment</li> <li>2.</li> <li>3.</li> </ul>	intain two (2) feet clearance with	Violation No Violation Violation No Violation Violation No Violation
Recommended Penalty: 1. <u>Warning</u> et 2. 3.	fer	
Additional Information:	plagle absta	ins.
APPROVED: Rick Slagle (initialed)		

Respondent:	Dave O'Mara Contracto	r, Inc.
Other Party:	Vectren	
Case No.:	2971	
Date of Advisory Meeting	g: August 28, 2012	
Statutes Allegedly Violate	ed:	
1. IC 8-1-26-20(b): Failure to m mechanized Equipment	aintain two (2) feet clearance with	Violation No Violation
2		Violation No Violation
3.		Violation No Violation
Recommended Penalty:	etter	
2.		
3.		

Additional Information: <u>Slagle abstains</u>



Respondent:	Weber Concrete	
Other Party:	Vectren	
Case No.:	2972	
Date of Advisory M	leeting: August 28, 2012	
Statutes Allegedly V	/iolated:	
1. IC 8-1-26-16(g): Failu	re to provide notice of excavation	Violation No Violation
2		Violation No Violation
3		Violation No Violation

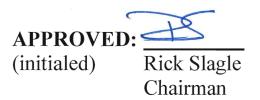
#### Recommended Penalty:

1.	Warning	letter	
2.			
3.			

Additional Information:



Respondent: Other Party: Case No.: Date of Advisory Meeting:	John Templan NIPSCO 2978 August 28, 2012	
Statutes Allegedly Violated 1. IC 8-1-26-16(g): Failure to prov 2 3	vide notice of excavation	Violation No Violation Violation No Violation Violation No Violation
Recommended Penalty: 1. <u>A Grning</u> 2. <u>.</u> 3. <u>.</u>	letter	
Additional Information:		
	· · · · · · · · · · · · · · · · · · ·	



Respondent: Other Party: Case No.: Date of Advisory Meeting	Hill T Excavating NIPSCO 2981 g: August 28, 2012	
Statutes Allegedly Violat 1. IC 8-1-26-20(b): Failure to m mechanized Equipment	ed: naintain two (2) feet clearance with	Violation No Violation
2 3		Violation No Violation Violation No Violation
Recommended Penalty: 1. <u>Warning</u>	after	

Additional Information:



Respondent: Other Party: Case No.: Date of Advisory Mee	Jennifer Dixon NIPSCO 2986 eting: August 28, 2012	
Statutes Allegedly Vi	olated:	
2.	to provide notice of excavation	Violation       No Violation         Violation       No Violation         Violation       No Violation
Recommended Penalt	Pttpf	
Additional Informatic	on:	
APPROVED: (initialed) Rick S	Slagle	

Chairman

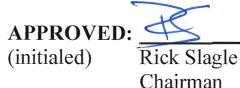
Respondent:	Jeff Martin
Other Party:	NIPSCO
Case No.:	2994
Date of Advisory Meeting:	August 28, 2012

#### Statutes Allegedly Violated:

1. IC 8-1-26-20(b): Failure to maintain two (2) feet clearance with	
mechanized Equipment	Violation No Violation
2	Violation No Violation
3	Violation No Violation

Recommended Penalty: 1. <u>Warning</u> letter 2. \_\_\_\_\_ 3. \_\_\_\_\_

Additional Information:



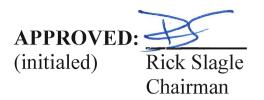
Respondent:	Walsh and Kelly
Other Party:	NIPSCO
Case No.:	2999
Date of Advisory Meeting:	August 28, 2012

Statutes Allegedly Violated:	
1. IC 8-1-26-16(g): Failure to provide notice of excavation	Violation No Violation
2.	Violation No Violation
3	Violation No Violation

#### Recommended Penalty:

1.	Warning	letter	
2.			
3.			

Additional	Information:
------------	--------------



2 Vic	olation No Violation olation No Violation olation No Violation
1. Warning letter	
Additional Information: <u>Warren abstains.</u>	<u>.</u>
APPROVED: Rick Slagle	

Respondent:	Prifogle Construction
Other Party:	Citizens Gas
Case No.:	3054
Date of Advisory Meeting:	August 28, 2012

Statutes Allegedly Violated:

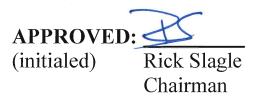
1. IC 8-1-26-16(g): Failure to provide notice of excavation	Violation No Violation
2	Violation No Violation
3	Violation No Violation

Recommended Penalty: etter. 1. Warning 2. \_\_\_\_\_ 3. \_\_\_\_\_ 

Additional Information: Warren abstains.

**APPROVED: \$** Rick Slagle (initialed) Chairman

Respondent: Other Party:	RL Johnson LLC Citizens Gas	
Case No.:	3062	
Date of Advisory Meeting:	August 28, 2012	
Statutes Allegedly Violated	d:	
1. IC 8-1-26-16(g): Failure to pro	wide notice of excavation	Violation No Violation
2.		Violation No Violation
3.		Violation No Violation
Recommended Penalty: 1. Warning /e 2 3	etter	
Additional Information: <u>\</u>	Jarren absta	ins



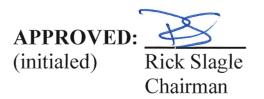
Respondent:	FE Harding Asphalt Co.
Other Party:	Citizens Gas
Case No.:	3068
Date of Advisory Meeting:	August 28, 2012

Statutes Allegedly Violated:	
1. IC 8-1-26-16(g): Failure to provide notice of excavation	Violation No Violation
2	Violation No Violation
3	Violation No Violation

#### Recommended Penalty:

1.	Warning	letter		
2.				
3.				

Additional Information:	Warren	abstains.
-------------------------	--------	-----------



Respondent: Other Party:	Culy Construction & Ex Citizens Gas	cavating, Inc.
Case No.:	3074	
Date of Advisory Meeting:		
Statutes Allegedly Violated	l:	
1. IC 8-1-26-20(b): Failure to mai mechanized Equipment	ntain two (2) feet clearance with	Violation No Violation
2		Violation No Violation Violation No Violation
Recommended Penalty: 1. <u>Narning lette</u> 2 3	r	
Additional Information: 🛴	arren abstain	8
APPROVED: (initialed) Rick Slagle Chairman		

Respondent:	<b>Cripe Excavating</b>
Other Party:	NIPSCO
Case No.:	3091
Date of Advisory Meeting:	August 28, 2012

#### Statutes Allegedly Violated:

Violation No Violation Violation No Violation Violation No Violation

**Recommended Penalty:** 1. Warning lett tetter \_\_\_\_\_ 3. \_\_\_\_\_

#### Additional Information: \_\_\_\_\_





Respondent:	Tad Freed
Other Party:	NIPSCO
Case No.:	3100
Date of Advisory Meeting:	August 28, 2012

Statutes Allegedly Violated:	
1. IC 8-1-26-16(g): Failure to provide notice of excavation	Violation No Violation
2	Violation No Violation
3	Violation No Violation

Ree	commended Penal	ty:	
1.	commended Penal	letter	
2.	$\bigcirc$		
3.			

Additional	Information:	



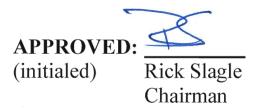
Respondent:	Columbia City Water Department
Other Party:	NIPSCO
Case No.:	3129
Date of Advisory Meeting:	August 28, 2012

Statutes Allegedly Violated:	
1. IC 8-1-26-16(g): Failure to provide notice of excavation	Violation No Violation
2	Violation No Violation
3	Violation No Violation

#### Recommended Penalty:

1.	Warning	letter		
2.				
3.				

Additional	Information:	
		_



Respondent:	Perkins Contracting Ser	vices
Other Party:	NIPSCO	
Case No.:	3148	
Date of Advisory Meeting	: August 28, 2012	
Statutes Allegedly Violate	d:	
e .	aintain two (2) feet clearance with	
mechanized Equipment		Violation No Violation
2		Violation No Violation
3		Violation No Violation
		—
Recommended Penalty:		
	J.J.	
2		
3		
Additional Information:		

**APPROVED**: (initialed) Rick Slagle Chairman

Respondent: Other Party: Case No.: Date of Advisory Meeting:	Lineal Contracting Vectren 3152 August 28, 2012	
<ul> <li>Statutes Allegedly Violatec</li> <li>1. IC 8-1-26-20(b): Failure to main mechanized Equipment</li> <li>2</li></ul>	intain two (2) feet clearance with	Violation No Violation Violation No Violation Violation No Violation
Recommended Penalty: 1. <u>Marning</u> let 2 3	ter	
Additional Information:	Slagle alosta	ins.
APPROVED: (initialed) Chairman	-	

Respondent:	East Side Vinyl
Other Party:	NIPSCO
Case No.:	3174
Date of Advisory Meeting:	August 28, 2012

#### Statutes Allegedly Violated:

1. IC 8-1-26-20(b): Failure to maintain two (2) feet clearance w	vith
mechanized Equipment	Violation No Violation
2	Violation No Violation
3	Violation No Violation

Recommended Penalty: 1. Warning letter 2. 3. \_\_\_\_\_

Additional Information: \_\_\_\_\_

5 APPROVED: **Rick Slagle** (initialed) Chairman

Respondent:	C S U Incorporated
Other Party:	Vectren
Case No.:	3185
Date of Advisory Meeting:	August 28, 2012

#### Statutes Allegedly Violated:

1. IC 8-1-26-20(b): Failure to maintain two (2) feet cle	
mechanized Equipment	Violation No Violation
2.	Violation No Violation

Violation No Violation 3. \_\_\_\_\_ Violation No Violation

#### **Recommended Penalty:**

1. Warning letter 2. 2. 3. \_\_\_\_\_

Additional Information: <u>Slagle</u> abstains

APPROVED: < (initialed) **Rick Slagle** Chairman

Respondent:	<b>M</b> Line Electric
Other Party:	NIPSCO
Case No.:	3233
Date of Advisory Meeting:	August 28, 2012

#### Statutes Allegedly Violated:

1. IC 8-1-26-20(b): Failure to maintain two (2) for	eet clearance with
mechanized Equipment	Violation No Violation
2	Violation No Violation
3	Violation No Violation

#### **Recommended Penalty:**

		•		
1.	Warning	letter		
2.				
3.				

#### Additional Information:

APPROVED. (initialed) **Rick Slagle** Chairman

Respondent:	American Concrete Raising
Other Party:	NIPSCO
Case No.:	3248
Date of Advisory Meeting:	August 28, 2012

Statutes Allegedly Violated:	$\frown$
1. IC 8-1-26-16(g): Failure to provide notice of excavation	Violation No Violation
2	Violation No Violation
3	Violation No Violation

#### Recommended Penalty:

1.	Warning	letter
2.		
3.		

Additional Information:	
-------------------------	--

APPROVED: (initialed) Rick Slagle Chairman

Respondent:	Brackney Inc.
Other Party:	Valley Rural Utility Company
Case No.:	3251
Date of Advisory Meeting:	August 28, 2012

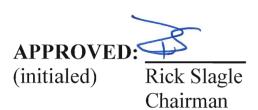
#### Statutes Allegedly Violated:

1. IC 8-1-26-20(b): Failure to maintain two (2) feet clearance w	vith
mechanized Equipment	(Violation) No Violation
2	Violation No Violation
3	Violation No Violation

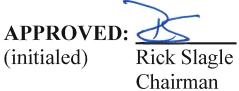
# **Recommended Penalty:**

1. Warning letter 2. 3.\_\_\_\_\_

#### Additional Information: \_\_\_\_\_\_



Respondent: Other Party: Case No.: Date of Advisory Meeting:	J.D.H. Contracting Vectren 3281 August 28, 2012	
Statutes Allegedly Violated 1. IC 8-1-26-16(g): Failure to prov 2 3	vide notice of excavation	Violation         No Violation           Violation         No Violation           Violation         No Violation
Recommended Penalty: 1. Warning 644 2 3		
Additional Information: <u>S</u>	lagh abst	ains.
~		



Respondent: Other Party: Case No.: Date of Advisory Meeting:	Powers Welding Vectren 3315 August 28, 2012	
<ul> <li>Statutes Allegedly Violated</li> <li>1. IC 8-1-26-20(b): Failure to main mechanized Equipment</li> <li>2</li></ul>	ntain two (2) feet clearance with	Violation Violation No Violation Violation No Violation
Recommended Penalty: 1. Warning let 2 3	fer	·
Additional Information:	Slagh abstain	<u>2</u> S,
APPROVED: Rick Slagle (initialed) Chairman		

Respondent:	<b>Tovey Perry Company</b>
Other Party:	Ind. Natural Gas Co.
Case No.:	3318
Date of Advisory Meeting:	August 28, 2012

Statutes Allegedly Violated:	$\frown$
1. IC 8-1-26-16(g): Failure to provide notice of excavation	Violation No Violation
2	Violation No Violation
3	Violation No Violation

#### Recommended Penalty:

1. ()	arning	leyter	 	
2.				
3.				

Additional	Information:
------------	--------------

APPROVED: ₫ **Rick Slagle** (initialed) Chairman