

General Information

In the state of Tennessee, State Law requires anyone about to engage in either digging, excavation, moving of earth, demolition or any type of activity that disturbs the earth and therefore possibly involving a danger to the public health and safety and/or damaging underground utility lines, to notify Tennessee One Call, of their intent to dig. More information of the Tennessee 811 Law may be found at <http://www.tenn811.com/>

TN One Call (TN 811) notifies member utilities of a third party's intent to dig so that member utilities can locate their underground infrastructure and mark them in accordance with the designated color coding. Underground potable water infrastructure is marked in blue and sewer is marked in green.

MWS or our locating contractor, USIC, marks the location of our underground utilities (water, sewer and SW).

Questions from Metro Council

1.) What amount of damages has been caused to Metro infrastructure as a result of work by private companies and contractors? [Note: No time frame has been suggested for this or other questions.]

See attached excel spreadsheet.

2.) Do these total damages include all incidental costs, including for example costs incurred by other departments (e.g., MNPD costs for police overtime when traffic must be re-routed, etc.) and charges for utilities that may be wasted as a result of infrastructure damage (e.g., wasted water from a water main break, etc.)

MWS invoices for costs incurred by MWS (including overhead) in the process of making necessary repairs. When MWS pays for the officers and paving that is included in the invoice. We do not calculate lost water.

3.) In addition to infrastructure damage, what amount of damages has been inflicted upon adjacent private properties and businesses?

MWS does not handle or track private property damage.

4.) Does Metro systematically track its losses, bill for them, and collect these amounts? Yes.

It is our standard operating procedure to pursue cost recovery anytime a third party damages our infrastructure, in accordance to Tennessee One Call state law through this process:

- When we have damage by others we make the necessary repairs (either in-house or through Purchasing via an emergency or quick bid) while investigating liability.
- We then generate a bill after all our costs are determined (repair – including parts, labor vehicle, paving, permitting, property restoration, etc). Determining all costs sometime takes a while depending on the extent of damage and the timing of full restoration. The liable party is identified through the MPW Permitting Process (since this is the Metro official record of who was permitted to work in the ROW). We also check Tennessee One Call records.

- The MWS System Services Division (SSD) submits the invoice (and accompanying documentation) utilizing the MWS Accounting/SSD developed cost recovery form. This form includes the latest MWS' Accounting determined overhead costs for water, sewer, etc.
- MWS Accounting checks form content for accounting accuracy and then bills the damaging party.
- If third party is delinquent in response or denies responsibility, Metro Legal then assists in seeking restitution.

5.) Can the damage totals be segregated according to the identity of the responsible party / contractor? If so, can a list be provided – by name of the responsible party – listing such damage amounts, and the status of repayment?

See attached excel spreadsheet

6.) Prior to excavation work, what bond and insurance requirements apply?

Each contractor is required to have \$1 million general liability and have a \$40 K bond for excavation in compliance with the Metropolitan Code of Law sections 13.20.020, 13.20.030 and 13.20.050.

7.) In the event multiple episodes of damage occur at the hands of one contractor, do any thresholds apply before the contractor is can eventually be prohibited from obtaining further excavation permits?

We provide a damage report to TN 811 via the Damage Information Reporting Tool (DIRT). In accordance with Tenn. Code Ann. § 65-31-112 et al., penalties may include training and/or a civil penalty of up to a maximum of five thousand dollars (\$5,000) per incident.

8.) What measures are applied to ensure that repairs or reimbursements are eventually made to Metro and to private properties?

If invoices for the repair of damages to MWS infrastructure are not paid by the damaging party, it is turned over to Metro Legal. Private property claims would be handled between the property owner and the damaging party and/or their insurance company.

9.) What is the process for private parties to submit claims against the responsible party?

They would follow the same process they would with any other private property claim.

10.) What notification requirements apply before excavation work begins, and how is compliance with these requirements monitored?

Metro is required to provide notification prior to excavation work but I am unaware of a notification requirement for third party construction or excavation work.

11.) How does Metro investigate the cause of infrastructure damage purportedly attributable to a contractor?

If the damage is not self-reported, we utilize Metro PW permit data and TN 811 data to determine the contractor. If underground infrastructure is accurately marked and the contractor damages it, the contractor is responsible. If it is inaccurately marked, they are not responsible. The details of marking accuracy are found in the TN 811 Law as referenced above.

12.) Does Metro assess and calculate their infrastructure damage costs attributable to a contractor or private entity? (A previous compilation from MWS indicated relatively low costs, including a 12" inch water line repair for only \$1010.33)

Actual repair costs – including parts, labor vehicle, paving, permitting, property restoration, etc. are determined utilizing the attached cost recovery form. Costs will vary based on severity and type of damage.

13.) What projects have been delayed as a result of damages caused by contractors?

MWS nor PW are aware of any delayed projects.

14.) Is the frequency and/or cost of infrastructure damages resulting from contractors increasing?

Since fiber installation began, yes. Overall, it has remained relatively steady. Between June 2015 (when major fiber installation began) and December 2015, MWS experienced 258 water main breaks – 10 of these were the result of fiber installation. So far in 2016, we have had 431 total main breaks; 72 of them have been caused by fiber installation contractors. (MWS has 3,000 miles of underground water main)

15.) If so, what additional measures are necessary to prevent the increasing frequency of infrastructure damages and disruptions?

In addition to the TN 811, MWS attends Google planning meetings and we have incorporated mapping coordination with Google. Google provides planned work areas (approximately 3 months into the future) in the form of a shape file and we overlay our infrastructure maps to help identify possible so they can be avoided.

16.) What additional measures are necessary to facilitate the recovery of damage costs from contractors?

If third party is delinquent in response or denies responsibility, Metro Legal then assists in seeking restitution.

17.) What steps are taken prior to a dig? 811 checked?

Contractors are required to call TN 811 prior to excavation and obtain a permit from Public Works.

18.) What qualifications must a contractor possess to be eligible to file a permit?

For an excavation permit, a contractor must be licensed, bonded and carry \$1 million in general liability in compliance with the Metropolitan Code of Law sections 13.20.020, 13.20.030 and 13.20.050.