



**TENNESSEE UNDERGROUND UTILITY DAMAGE PREVENTION BOARD  
EXECUTIVE COMMITTEE MEETING  
Meeting on September 26, 2017**

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**MINUTES**

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The Executive Committee meeting of the Tennessee Underground Utility Damage Enforcement Board commenced at 11:45 a.m. in the Ground Floor Meeting Room of 500 Deaderick Street, Nashville, Tennessee 37243.

*Executive Committee Members Present:*

Bob Lambert  
Steven Raper  
Kevin Tubberville, Chairman

*TPUC Staff Present:*

Stacy Balthrop  
Jaclyn Hammons  
Slayde Warren  
Aaron Conklin  
Ryan McGehee  
Sharla Dillon

Sharla Dillon opened the meeting, and the Committee considered the Minutes of the meeting of August 30, 2017. There were no corrections, and the Minutes were approved on a voice vote.

Presentation of Investigation of Complaints:

The Committee heard and ruled on the following complaints:

**EB17-0094** –

Alleged Violator: Manuel Carreon, M-KO Contractor

Complainant: Atmos Energy

Equipment Used: backhoe

Root Cause: excavating before locate ticket was valid

Facts: There has been no response from the company following the initial contact and no response to a request for the original locate ticket number.

Recommendation: training for Orlando Carreon

**Finding:** there was a violation for excavation with an invalid ticket; training for Orlando Carreon

**EB17-0098** –

Alleged Violator: Jeff Brasfield, Brasfield Construction

Complainant: PRG/Charter

Facility Type: cable

Root Cause: no notification made to Tennessee 811 prior to excavation

Facts: Steve Raper recused himself from this complaint because he knows the alleged violator. The work was done at a small strip mall, and there was a locate ticket for initial work. The company came back into the area later and completed some work without a locate ticket. The alleged violation occurred next door to the address for the prior locate ticket.

Recommendation: training for Jeff Brasfield

**Finding:** there was a violation for no notification to 811 prior to excavation; training for Jeff Brasfield; motion carried 2-0 with 1 recusal

**EB17-0121** –

Alleged Violator: Jesse Harris, Harris Construction

Complainant: OSP

Facility Type: cable

Equipment Used: backhoe

Root Cause: no notification made to Tennessee 811 prior to excavating

Recommendation: training for Jesse Harris

**Finding:** there was a violation of no notification to 811 prior to excavation; training for Jesse Harris

**EB17-0123** –

Alleged Violator: Whaley & Sons Construction, excavator unknown

Complainant: Atmos Energy

Equipment Used: backhoe

Root Cause: failure to use reasonable care in tolerance safety zone

Facts: the locate ticket stated “clear/no conflict”

Recommendation: no violation

**Finding:** no violation

**EB17-0130** –

Alleged Violator: M Squared Custom Homes, excavator unknown

Complainant: a property owner  
Facility Type: telecom  
Root Cause: failure to use reasonable care  
Facts: this is a duplicate of a previous complaint (EB17-0133) but was filed by a different complainant

**Finding:** administratively close this complaint since it's a duplicate of another complaint on the same incident

**EB17-0134** –

Alleged Violator: David Rodriguez, Award Construction (Jerry LaQuiere, owner)  
Complainant: Atmos Energy  
Facility Type: gas  
Equipment Used: backhoe  
Root Cause: excavating beyond the 15-day expiration  
Facts: Neither side was able to present pictures, but the alleged violation was definitely outside the 15-day frame.

**Finding:** there was a violation for excavating beyond the 15-day expiration of the dig ticket; training for Jerry LaQuiere

**EB17-0135** –

Alleged Violator: Verita Telecommunications Corporation  
Complainant: USIC  
Root Cause: reporting a false emergency for locate  
Recommendation: training for John McCarrier  
**Finding:** there was a violation of reporting a false emergency for a locate ticket; training for John McCarrier

**EB17-0144** (also see EB17-0152) –

Alleged Violator: Jeremy Batts, Palm Beach Grading (Robert Craig, Jr., supervisor; Mr. Spaide, safety coordinator)  
Complainant: Atmos Energy  
Facility Type: gas  
Root Cause: failure to use reasonable care in the tolerance safety zone  
Facts: These were subcontractors from Palm Beach Grading, a Florida company, and they are no longer doing any work in Tennessee. If found in violation, this would be their third. Mr. Spaide indicated that they will be paying. There is an additional complaint in EB17-0152.

Recommendation: as a third violation, assess a civil penalty of \$1,250

**Finding:** consolidate EB17-0144 and EB17-0152; there was a violation of failure to use reasonable care in the tolerance safety zone; this is the third violation for this company; assess a civil penalty of \$1,250

**EB17-0148**–

Alleged Violator: Heidi Jones, The Franklin Group, LLC  
Complainant: OSP  
Facility Type: telecom

Root Cause: excavating beyond 15-day expiration  
Facts: There was no proof the damage was done by a machine  
Recommendation: no violation  
**Finding:** no violation

**EB17-0150** –

Alleged Violator: Nicholas Overbay, East Tennessee Turf & Landscape  
Complainant: Atmos Energy  
Root Cause: excavating before locate ticket was valid  
Recommendation: training  
**Finding:** there was a violation of excavating before locate ticket was valid; training for Nicholas Overbay

**EB17-0152** (see EB17-0144) –

Alleged Violator: Palm Beach Grading  
**Finding:** consolidate EB17-0144 and EB17-0152; there was a violation of failure to use reasonable care in the tolerance safety zone; this is the third violation for this company; assess a civil penalty of \$1,250

**EB17-0154** –

Alleged Violator: MLG&W, excavator unknown  
Complainant: OSP  
Root Cause: failure to use reasonable care  
Recommendation: no violation  
**Finding:** no violation

**EB17-0158** –

Alleged Violator: MLG&W, excavator unknown  
Complainant: OSP  
Root Cause: failure to use reasonable care  
Recommendation: no violation  
**Finding:** no violation

**EB17-0161** –

Alleged Violator: City of Murfreesboro, excavator unknown  
Complainant: OSP  
Equipment Used: Harley rake  
Root Cause: failure to contact Tennessee 811 for locate  
Facts: A Harley rake does not go very deep in the ground, and this would be considered routine road maintenance by the City  
Recommendation: no violation  
**Finding:** no violation

**EB17-0172** –

Alleged Violator: Tim Harris, Roto-Rooter

Complainant: Atmos Energy

Equipment Used: backhoe

Root Cause: failure to use reasonable care

Facts: A picture was provided which showed marks in the bank where a piece of equipment had been digging. Although the ground was hard, that doesn't excuse the use of equipment in the tolerance zone.

**Finding:** there was a violation of failure to use reasonable care in a tolerance zone; training for Tim Harris

**EB17-0182** –

Alleged Violator: Mainstream, Incorporated, excavator unknown

Complainant: Atmos Energy

Equipment Used: backhoe

Root Cause: no notification made to Tennessee 811

Facts: Several unsuccessful attempts were made to determine who did the excavation.

Recommendation: training

**Finding:** there was a violation of no notification to 811 prior to excavation; training for James Pigg

**EB17-077** –

Alleged Violator: TJ Rodgers, Stansell Electric

Complainant: Atmos Energy

Equipment Used: backhoe

Root Cause: failure to use reasonable care

Facts: Kevin Tubberville recused himself from this complaint because of a working relationship with Stansell Electric. This is the second violation for this company but involves a different excavator. Stansell Electric's response to the complaint stated that the utilities were properly identified and marked by the locating company, that Stansell accepted responsibility for the damage, and that all operators will stop digging within two feet of the utility in the future.

Recommendation: a civil penalty of \$625 and training for TJ Rodgers

**Finding:** there was a violation of failure to use reasonable care in the tolerance safety zone; assess a \$625 penalty; training for TJ Rodgers; motion carried 2-0 with 1 recusal

**EB17-0117** –

Alleged Violator: MLG&W, excavator unknown

Complainant: OSP

Facility Type: cable

Equipment Used: backhoe

Root Cause: failure to use reasonable care in the safety tolerance zone

Facts: There was an active locate ticket, but the locator failed to show that there were multiple lines.

Recommendation: no violation

**Finding:** no violation

**EB17-0131** –

Alleged Violator: Jesse Smith, Smithbilt Homes

Complainant: PRG

Facility Type: cable

Equipment Used: backhoe

Root Cause: excavating before locate ticket was valid

Facts: The complaint came in as Smithbilt Homes, but Jesse Smith stated that he technically works for Southland Communities, Inc. Because the ticket was called in under Smithbilt Homes, that is the responsible company.

Recommendation: training

**Finding:** there was a violation of excavation prior to a valid locate ticket; training for Jesse Smith

**EB17-0149** –

Alleged Violator: Marvin Young, My Scapes, LLC

Complainant: Atmos Energy

Facility Type: gas

Equipment Used: backhoe

Root Cause: no notification made to Tennessee 811 prior to excavating

Recommendation: training for Marvin Young

**Finding:** there was a violation of no notification to 811 prior to excavation; training for Marvin Young

**EB17-0166** –

Alleged Violator: Jeff Shepherd, Shepherd Construction

Complainant: OSP

Facility Type: cable

Equipment Used: track hoe

Root Cause: excavating beyond 15-day expiration

**Finding:** there was a violation of excavation on an expired locate ticket; training for Jeff Shepherd

**Presentation of Cost/Fee Requests by Tennessee 811 for Training of Violators**

Ryan McGehee reported that there would be no presentation.

**Topics for Next Executive Committee Meeting**

Mr. Tubberville commended the TPUC staff on the great job they are doing and inquired about the progress on making contact with people who have been unresponsive. Stacy Balthrop responded that at the last meeting there were four that were flagged. Three of those have gone to the contested case phase, and one has made contact. She stated that there are currently three which are flagged, and she is communicating with two of them.

The Executive Committee meeting adjourned at 12:26 p.m.