



**TENNESSEE UNDERGROUND UTILITY DAMAGE PREVENTION BOARD  
EXECUTIVE COMMITTEE MEETING  
Meeting on November 29, 2017**

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**MINUTES**

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The Executive Committee meeting of the Tennessee Underground Utility Damage Enforcement Board commenced at 11:05 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:*

Ryan McGehee, legal advisor to the TUUDEB  
Aaron Conklin, legal advisor to the TPUC staff  
Stacy Balthrop  
Slayde Warren  
Jaclyn Hammons  
Sharla Dillon

*Also Present:*

Bill Turner, Tennessee 811

Sharla Dillon opened the meeting, and the Committee considered the Minutes of the meeting of October 25, 2017. Mr. Tubberville noted that the April meeting date was changed after the meeting until the 17<sup>th</sup>. The Minutes were approved as corrected on a voice vote.

Presentation of Investigation of Complaints:

The Committee heard and ruled on the following complaints:

**EB17-0124** –

Alleged Violator: Ray's Plumbing

Complainant: Comcast

Facility Type: cable

Equipment Used: unknown

Root Cause: demolishing or excavating outside of the requested locate area

Recommendation: no violation

**Finding:** no violation

**EB17-0125** –

Alleged Violator: C. S. Frye Contractors

Complainant: Atmos Energy

Facility Type: gas

Equipment Used: unknown

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

Recommendation: Charles Frye to attend mandatory training

**Finding:** C. S. Frye found in violation of failure to notify One Call prior to Excavating

**EB17-0140\*** –

Alleged Violator: Pine Enterprises

Alleged Excavator: Unknown

Complainant: Atmos Energy

Facility Type: gas

Equipment Used: backhoe

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

Facts: Previous civil penalty of \$625; contested.

**Finding:** Pine Enterprises found in violation of failure to use reasonable care in the safety zone and assessed a civil penalty of \$625 as a second violation.

**EB17-0156\*** –

Alleged Violator: Pine Enterprises

Complainant: Atmos Energy

Facility Type: gas

Equipment Used: backhoe

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

Recommendation: a company officer and a field representative to undergo training

**Finding:** there was a violation of Pine Enterprises for failure to use reasonable care in the tolerance safety zone

\* Note: there was discussion that 17-0140 and 17-0156 be considered together due to the supervisor for both was Santiago Estrada. Mr. Estrada had previously completed ordered training. It was determined that Mr. Estrada did not spend much time with the crews and the violations were ultimately decided separately.

**EB17-0147** –

Alleged Violator: AM Plumbing  
Alleged Excavator: Mr. Aubrey Lipford  
Complainant: OSP with Comcast  
Facility Type: Cable  
Equipment Used: backhoe  
Root Cause: no notification  
Recommendation: Aubrey Lipford to attend training  
**Finding:** AM Plumbing in violation of failure to provide notice to One Call prior to excavation

**EB17-0163** –

Alleged Violator: Homeowner  
Alleged excavator: Mr. Sergio Rincon  
Complainant: OSP with Comcast  
Equipment Used: boring device  
Root Cause: failure to use reasonable care in the safety and tolerance zone  
Facility Type: Cable  
Facts: complainant no longer with this company. Homeowner not responsive despite repeated attempts, including photograph of mark.  
Recommendation: Administrative dismissal  
**Finding:** no violation

**EB17-0169** –

Alleged Violator: True Light Communications  
Alleged Excavator: Mr. Marc Buckner  
Complainant: Atmos Energy  
Facility Type: gas  
Equipment Used: plow  
Root Cause: no notification made to Tennessee 811 prior to excavating  
Recommendation: training for Marc Buckner  
**Finding:** True Light Communications in violation of failure to provide notice to One Call prior to excavation and to order marc Buckner to attend training

**EB17-0176** –

Alleged Violator: Cynergy Construction (contractor)  
Alleged Excavator: Unknown  
Alleged Violator: SC Construction  
Alleged Subcontractor Excavator: Spencer Corlew  
Complainant: Atmos Energy  
Equipment Used: backhoe  
Root Cause: no notification made to Tennessee 811 prior to excavating  
Facts: 2 NAVs previously sent. Prior recommendation for the contractor Cynergy Construction.  
Findings: Violation with SC Construction for failure to give notice to One Call prior to excavation and Spencer Corlew ordered to attend training. Cynergy Construction – no violation. Subcontractor responsible for damage.

**EB17-0180** –

Alleged Violator: Holt Plumbing  
Complainant: Atmos Energy  
Facility Type: gas  
Equipment Used: backhoe  
Root Cause: insufficient notification to One Call  
Recommendation: training for Eric Holt  
Finding: Holt Plumbing Company in violation of failure to give notice to One Call prior to excavation.

**EB17-0183** –

Alleged Violator: Tomlinson Construction  
Alleged excavator: William Tomlinson  
Facility Type: gas  
Complainant: Atmos Energy  
Equipment Used: backhoe  
Root Cause: Failure to use reasonable care in the tolerance/safety zone  
Finding: no violation

**EB17-0199** –

Alleged Violator: MLGW  
Alleged Excavator: Unknown  
Complainant: OSP on behalf of Comcast  
Facility Type: cable  
Root Cause: no notification made to Tennessee 811  
Finding: no violation

**EB17-0202** –

Alleged Violator: Nexus Communications  
Alleged excavator: unable  
Contractor: Total Quality Assurance  
Subcontractor: Nexus Communications  
Complainant: Metro Water  
Equipment Used: shovels  
Root Cause: Reporting a false emergency for locate ticket.  
Recommendation: Confusion between differentiation between short notice and emergency. Also no conflict with the water line on-site  
Finding: no violation

**EB17-0203** –

Alleged Violator: Music City Handyman, LLC  
Alleged excavator: unknown  
Complainant: Metro Water  
Facility Type: Water  
Equipment Used: backhoe  
Root Cause: excavating beyond 15-day expiration  
Recommendation: training for Jeremiah Watson  
Finding: Music City Handyman, LLC in violation of excavating beyond the expiration of the locate ticket and to order Jeremiah Watson to attend training

**EB17-0204** –

Alleged Violator: Westmoreland Grading, LLC  
Alleged excavator: William Westmoreland  
Complainant: OSP on behalf of Comcast  
Facility Type: telecom  
Equipment Used: backhoe  
Root Cause: excavating beyond 15-day expiration  
Recommendation: no violation  
Finding: no violation

**EB17-0205** –

Alleged Violator: Lynn Sanford Construction  
Alleged excavator: unknown  
Complainant: OSP on behalf of Comcast  
Facility Type: cable  
Equipment Used: backhoe  
Root Cause: excavating or demolishing before locate ticket was valid  
Recommendation: no violation  
Finding: no violation

**EB17-0215** –

Alleged Violator: Powell's Sewer & Drain  
Alleged excavator: Larry Powell  
Complainant: Atmos Energy  
Facility Type: gas  
Equipment Used: backhoe  
Root Cause: no notification made to Tennessee 811 prior to excavating  
Recommendation: Larry Powell to attend training  
Finding: Failure to give notice to One Call prior to excavation

**EB17-0218** –

Alleged Violator: Southern Green Landscaping  
Alleged excavator: Nick Williams  
Complainant: Atmos Energy  
Facility Type: gas  
Equipment Used: trencher  
Root Cause: failure to use reasonable care in the tolerance/safety zone  
Recommendation: Nick Williams to attend training  
Finding: Failure to use reasonable care in the tolerance zone and to order Nick Williams to attend training

**EB17-0221** –

Alleged Violator: The Lawn Butler  
Alleged excavator: unknown  
Complainant: PRG on behalf of Charter  
Facility Type: cable  
Equipment Used: crawler  
Root Cause: excavating before the locate ticket was valid  
Recommendation: Brian Lowry to attend training  
Finding: Lawn Butler in violation of excavation before the locate ticket was valid and to send Brian Lowry to training.

Presentation of Cost/Fee Request by Tennessee 811 for Training of Violators: None

Discussion of future topics for next executive committee meeting (Dillon)

Aaron Conklin gave a brief update on compliance and contested cases. At present there are twenty two complaints that have entered into either a show cause due to non-compliance with a citation or where there was active contest to that citation. Of this number, eight are contested. The remaining fourteen are those who have not attended training or otherwise complied with a citation. Mr. Conklin indicated to obtain a response, proceedings will have to be initiated. Three contested cases were set for hearing on December 11, 2017; however all three have been resolved without a hearing, pending signatures by the parties.

Mr. Conklin indicated that as some of the cases come into contested case mode, some of the alleged violators are going to find out it costs something not to address situation seriously when notice of alleged violation received and a citation is issued.

Ms. Balthrop reported that eighteen complaints had been received so far this month. December meeting was cancelled and schedule for 2018 meetings are: January 20, February 14, March 14, April 17, May 16, June 20, July 18, August 15, September 19, October 17, November 14, and December 19. A discussion was held on the potential conflicts of the June date. Ms. Balthrop indicated that she would look at other dates for June and report back. She also stated that the next quarterly report will be for October, November and December and will be on the website in early February.

The Executive Committee meeting adjourned at 12:00 p.m.