



**TENNESSEE UNDERGROUND UTILITY DAMAGE PREVENTION BOARD
EXECUTIVE COMMITTEE MEETING
Meeting on January 16, 2019**

MINUTES

The Executive Committee meeting of the Tennessee Underground Utility Damage Enforcement Board commenced at 10:00 a.m., in Hearing Room G-201 of 500 Deaderick Street, Nashville, Tennessee 37243.

Executive Committee Members Present:

Kevin Tuberville, Chairman
Bob Lambert
Steve Raper

TPUC Staff Present:

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

Also Present:

Bill Turner, Tennessee 811

Roll Call & Minutes:

Sharla Dillon opened the meeting and took roll call that confirmed Chairman Kevin Tuberville, Bob Lambert and Steve Raper as present. The Committee considered the Minutes of the meeting of November 16, 2018. A motion to approve the minutes was approved unanimously.

Presentation of Investigation of Complaints:

The Committee heard and ruled on the following complaints:

EB18-0122-

Alleged Violator: Bryan Testerman Construction
Alleged Excavator: Bryan Testerman/Jason Harness
Complainant: PRG on behalf of Charter
Facility Type: Cable
Equipment: Crawler
Root Cause: Failure to use reasonable care in the safety zone.
Finding: No violation for Bryan Testerman Construction Company; and to find a violation for Dave Harness & Sons (Sub-Contractor) and Jason Harness ordered to attend compliance training

EB18-0127-

Alleged Violator: Robert McAlister
Alleged Excavator: Robert McAlister
Complainant: Atmos Energy
Facility Type: Gas
Equipment: Backhoe
Root Cause: Excavating before the locate ticket was valid
Finding: In violation for excavating before the locate ticket was valid and Robert McAlister ordered to attend compliance training.

EB18-0130-

Alleged Violator: Big Woody's Tree Service
Alleged Excavator: Unknown
Complainant: Property Owner
Facility Type: Gas
Equipment: Stump Grinder
Root Cause: Excavating before the locate ticket was valid
Finding: Administrative Closure.

EB18-0136-

Alleged Violator: Star Construction
Alleged Excavator: Dennis Owens
Complainant: West Wilson Utility District
Facility Type: Water
Equipment: Drill
Root Cause: Failure to notify 811 prior to excavation.
Finding: In violation for failure to notify 811 prior to excavation, second violation, assess a civil penalty of \$625 and Dennis Owens ordered to attend compliance training.

EB18-0138-

Alleged Violator: Jose Hernandez
Alleged Excavator: Jose Hernandez
Complainant: Atmos Energy
Facility Type: Gas
Equipment: Backhoe
Root Cause: Failure to notify 811 prior to excavation.

Finding: In violation for failure to notify 811 prior to excavation, second violation, assess a civil penalty of \$625 and Jose Hernandez ordered to attend compliance training.

EB18-0145-

Alleged Violator: Consolidated Properties Management & Development

Alleged Excavator: Unknown

Complainant: Atmos Energy

Facility Type: Gas

Equipment: Backhoe

Root Cause: Failure to use reasonable care in the safety zone

Finding: In violation for failure to use reasonable care in the safety zone and Michael Shelton ordered to attend compliance training.

EB18-0149-

Alleged Violator: Sooner Landscaping

Alleged Excavator: Unknown

Complainant: Atmos Energy

Facility Type: Gas

Equipment: Back hoe

Root Cause: Failure to notify One-Call prior to excavation.

Finding: In violation for failure to notify One-Call prior to excavation and Marty Underwood ordered to attend compliance training.

EB018-0150-

Alleged Violator: Roto-Rooter Plumbing (Columbia)

Alleged Excavator: Charles "Trey" Fulghum

Complainant: Atmos Energy

Facility Type: Gas

Equipment: Back hoe

Root Cause: Failure to use reasonable care in the safety zone

Finding: In violation for failure to use reasonable care in the safety zone, second violation, assess a civil penalty of \$625 and Charles Fulghum ordered to attend compliance training.

EB18-0151-

Alleged Violator: Superior Traffic Control

Alleged Excavator: Jeramie Wood

Complainant: Atmos Energy

Facility Type: Gas

Equipment: Drill

Root Cause: Failure to use reasonable care in the safety zone

Finding: In violation for failure to use reasonable care in the safety zone, second violation, assess a civil penalty of \$625 and Charles Fulghum ordered to attend compliance training.

EB18-0153-

Alleged Violator: Lee Company

Alleged Excavator: Dwight Walls

Complainant: Atmos Energy

Facility Type: Gas
Equipment: Back hoe
Root Cause: Failure to use reasonable care in the safety zone
Finding: No violation.

EB18-0155-

Alleged Violator: Putman Plumbing
Alleged Excavator: Brandon Putnam
Complainant: Atmos Energy
Facility Type: Gas
Equipment: Backhoe
Root Cause: Failure to notify One-Call prior to excavation
Finding: In violation for failure to notify One-Call prior to excavation and Brandon Putnam ordered to attend compliance training.

EB18-0156-

Alleged Violator: Broadband Tech Services
Alleged Excavator: Unknown
Complainant: Atmos Energy
Facility Type: Gas
Equipment: Backhoe
Root Cause: Failure to use reasonable care in the safety zone
Finding: In violation for failure to use reasonable care in the safety zone, and Evan Gray ordered to attend compliance training.

EB18-0158-

Alleged Violator: Service Electric
Alleged Excavator: Unknown
Complainant: Atmos Energy
Facility Type: Gas
Equipment: Auger
Root Cause: Excavating beyond 15 day expiration
Finding: In violation for excavating beyond the 15 day expiration and Donald Tyrus ordered to attend compliance training.

EB18-0159-

Alleged Violator: Smith Constructors
Alleged Excavator: Kris Starling
Complainant: Atmos Energy
Facility Type: Gas
Equipment: Back hoe
Root Cause: Failure to notify One-Call prior to excavation.
Finding: Failure to notify One-Call prior to excavation.
Finding: In violation for failure to notify One-Call prior to excavation, second violation, civil penalty of \$625 to be paid and Kris Starling and Matt Cates ordered to attend compliance training.

EB18-0164-

Alleged Violator: Diesel Telecom

Alleged Excavator: Unknown

Complainant: Atmos Energy

Facility Type: Gas

Equipment: Boring device

Root Cause: Failure to use reasonable care in the safety zone

Finding: In violation for failure to use reasonable care in the safety zone and Casey Sams ordered to attend compliance training.

EB18-0165-

Alleged Violator: Elite Technician Management Group

Alleged Excavator: Logan Greer

Complainant: Atmos Energy

Facility Type: Gas

Equipment: Trencher

Root Cause: Failure to use reasonable care in the safety zone

Finding: In violation for failure to use reasonable care in the safety zone, second violation, civil penalty of \$625 to be paid and Bert Copeland and Logan Grier ordered to attend compliance training.

EB18-0166-

Alleged Violator: Pro Touch

Alleged Excavator: Brandon Martinez

Complainant: Atmos Energy

Facility Type: Gas

Equipment: Back hoe

Root Cause: Failure to notify One-Call prior to excavation.

Finding: In violation for failure to notify One-Call prior to excavation and Brandon Martinez and Jacob White ordered to attend compliance training.

EB18-0169-

Alleged Violator: Daugherty Excavating

Alleged Excavator: Jamie Russell

Complainant: Atmos Energy

Facility Type: Gas

Equipment: Track hoe

Root Cause: Failure to notify One-Call prior to excavation.

Finding: In violation for failure to notify One-Call prior to excavation and Jamie Russell ordered to attend compliance training.

EB18-0115 , EB18-0144, EB18-0168 (motion to consolidate) passed

Alleged Violator: L & R Plumbing

Alleged Excavator: Jamie Russell

Complainant: Atmos Energy

Facility Type: Gas

Equipment: Track hoe

Root Cause: Failure to use reasonable care in the safety zone and excavating beyond 15 day expiration

Finding: In violation for failure to use reasonable care in the safety zone and for excavating beyond the 15 day expiration of the locate ticket; second violation, L&R Plumbing has engaged in willful misconduct in its actions and is assessed a civil penalty in the amount of \$5,000. Company officers and all employees who excavate and oversee excavation projects are ordered to attend compliance training. L&R Plumbing is required to submit a plan of action for future compliance within 30 days of the issuance of the citation.

Presentation of Cost/Fee By One Call For Training of Violators: No Request at this time.

Mr. Turner reported since the beginning of the Enforcement Program from April 2017 through the end of 2018, two hundred and forty-two (242) individuals have been trained; representing one hundred and ninety-one (191) organizations. Fiscal year 2018, twenty-nine (29) classes were conducted; four (4) classes held at individual's location or their requested location, with at total one hundred and thirty (130) individuals representing one hundred and twelve (112) organizations have completed the training. For 2019 month-to-date, no training classes as of yet, eleven (11) training classes are scheduled for January and then an additional eight (8) scheduled in the future.

Discussion of future topics for next Executive Committee Meeting (Dillon) was referenced but none was stated.

Ms. Hammons provided a staff update. Ms. Hammons stated there were ten (10) complaints for December, seven (7) complaints for January, and nineteen (19) open complaints. Ms. Hammons estimates approximately ten (10) complaints for the February meeting. Ms. Hammons further stated the October 2018 through December 2018 quarterly report is on the website.

Mr. Lambert discussed the possibility of using an eighteen (18) month look back for previous violations and whether a rule was needed, specifically with applying a look back starting with the date of initial compliance with training rather the date of a violation or citation.

Mr. Conklin stated he will draft a potential rule and present it at the next meeting. In the meantime, the Executive Committee is free to exercise discretion.

The Executive Committee meeting adjourned at 11:00 a.m.