



**TENNESSEE UNDERGROUND UTILITY DAMAGE PREVENTION BOARD  
EXECUTIVE COMMITTEE MEETING  
Meeting on April 17, 2019**

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**MINUTES**

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The Executive Committee meeting of the Tennessee Underground Utility Damage Enforcement Board commenced at 10:00 a.m., in the Ground Floor Conference Room of 502 Deaderick Street, Nashville, Tennessee 37243.

**Executive Committee Members Present:**

Bob Lambert  
Steve Raper  
Kevin Tubberville, Chairman

**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  
Craig Ingram

**Roll Call & Minutes:**

Ms. Sharla Dillon opened the meeting and took roll call which confirmed Chairman Kevin Tubberville, Mr. Bob Lambert, and Mr. Steve Raper as present. The Committee considered the Minutes of the meeting of February 13, 2019. A motion to approve the Minutes was approved unanimously. Three members voting on this motion the motion carries 3-0.

**Presentation of Investigation of Complaints:**

The Committee heard and ruled on the following complaints:

**EB18-0157-**

**Alleged Violator:** Progression Electric

**Alleged Excavator:** Unknown

**Complainant:** U.S. Department of Energy

**Facility Type:** Telecom

**Equipment:** Unknown

**Root Cause:** Failure to verify locate marks.

**Finding:** In violation for failure to verify locate marks and Bill Medley ordered to attend compliance training.

**EB18-0173-**

**Alleged Violator:** Premier Design Build

**Alleged Excavator:** Keith Archibald

**Complainant:** Atmos Energy

**Facility Type:** Gas

**Equipment:** Backhoe

**Root Cause:** Failure to use reasonable care

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

**EB18-0175-**

**Alleged Violator:** Thornhill Lawn Care

**Alleged Excavator:** Jeremy Jones

**Complainant:** Atmos Energy

**Facility Type:** Gas

**Equipment:** Unknown

**Root Cause:** Failure to notify 811 prior to excavation.

**Finding:** In violation for failure to notify 811 prior to excavation, ordered to pay a civil penalty of \$625 based on a second violation, and Greg Smith ordered to attend compliance training.

**EB18-0176-**

**Alleged Violator:** MLGW

**Alleged Excavator:** Unknown

**Complainant:** Deviney Construction

**Facility Type:** Unknown

**Equipment:** Unknown

**Root Cause:** Facility not located or marked.

**Finding:** In violation for facility not located or marked failure this is a second violation and the supervisor of locates ordered to attend compliance training.

**EB19-0001-**

**Alleged Violator:** Hertz Asphalt & Concrete

**Alleged Excavator:** Donnie Moore

**Complainant:** Property Owner

**Facility Type:** Gas

**Equipment:** Skid Loader

**Root Cause:** No notification made to Tennessee 811

**Finding:** In violation for no notification to One Call prior to excavation and Donnie Moore ordered to attend compliance training.

**EB19-0002-**

**Alleged Violator:** Robinson Properties; subcontractor: Hunt Construction & Excavating

**Alleged Excavator:** Unknown

**Complainant:** Homeowner

**Facility Type:** Water

**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 Denton Hunt ordered to attend compliance training.

**EB19-0003-**

**Alleged Violator:** Wright Construction Company

**Alleged Excavator:** Mathew Mulicon

**Complainant:** Atmos Energy

**Facility Type:** Gas

**Equipment:** Backhoe

**Root Cause:** Failure to notify Tennessee 811

**Finding:** In violation for failure to notify One-Call prior to excavation and Mathew Mulicon ordered to attend compliance training.

**EB019-0004-**

**Alleged Violator:** Wright Construction Company

**Alleged Excavator:** Arthur Falkenbach

**Complainant:** Atmos Energy

**Facility Type:** Gas

**Equipment:** Backhoe

**Root Cause:** Failure to notify Tennessee 811

**Finding:** In violation for failure to notify One-Call prior to excavation, Wright Construction Company ordered to pay a civil penalty of \$625 for second violation, and Arthur Falkenbach ordered to attend compliance training.

**EB19-0007-**

**Alleged Violator:** Ark Construction Group

**Alleged Excavator:** Miguel Chavez

**Complainant:** Atmos

**Facility Type:** Gas

**Equipment:** Backhoe

**Root Cause:** Failure to use reasonable care

**Finding:** In violation for failure to use reasonable care in a safety zone, Ark Construction Company ordered to pay a civil penalty of \$625 for second violation, and Miguel Chavez ordered to attend compliance training.

**EB19-0008-**

**Alleged Violator:** D&M Underground

**Alleged Excavator:** David Smith

**Complainant:** Atmos

**Facility Type:** Gas  
**Equipment:** Backhoe  
**Root Cause:** Excavating before the locate ticket was valid  
**Finding:** In violation for excavating before a locate ticket was valid and David Smith ordered to attend compliance training.

**EB19-0009-**

**Alleged Violator:** Stansell Electric  
**Alleged Excavator:** Charles Dobbins  
**Complainant:** Atmos  
**Facility Type:** Gas  
**Equipment:** Backhoe  
**Root Cause:** Failure to notify Tennessee 811  
**Finding:** In violation for failure to notify One-Call prior to excavation, Stansell Electric ordered to pay a civil penalty of \$1250 for third violation, and Charles Dobbins and Eddie Frierson ordered to attend compliance training.

**EB19-0010-**

**Alleged Violator:** Fersner Plumbing  
**Alleged Excavator:** Darryl Fersner  
**Complainant:** Atmos  
**Facility Type:** Gas  
**Equipment:** Mini Excavator  
**Root Cause:** Failure to notify Tennessee 811  
**Finding:** In violation for failure to notify One-Call prior to excavation and Darryl Fersner ordered to attend compliance training.

**EB19-0011-**

**Alleged Violator:** Jacobs Construction  
**Alleged Excavator:** Mark Butcher  
**Complainant:** Atmos  
**Facility Type:** Gas  
**Equipment:** Backhoe  
**Root Cause:** Failure to notify Tennessee 811  
**Finding:** In violation for failure to notify One-Call prior to excavation and Mark Butcher ordered to attend compliance training.

**EB19-0012-**

**Alleged Violator:** Deal & Son Grading  
**Alleged Excavator:** Francisco Ayalla  
**Complainant:** Atmos  
**Facility Type:** Gas  
**Equipment:** Backhoe  
**Root Cause:** Failure to use reasonable care  
**Finding:** In violation for failure to notify One-Call prior to excavation, Deal & Son Grading to pay a civil penalty of \$625 for second violation, and Gerald Deal and Francisco Ayalla ordered to attend compliance training.

**EB19-0013-**

**Alleged Violator:** Legenia Kilgo

**Alleged Excavator:** Unknown  
**Complainant:** USIC  
**Facility Type:** Water  
**Equipment:** Unknown  
**Root Cause:** Reporting false emergency for a locate ticket  
**Finding:** No violation

**EB19-0015-**

**Alleged Violator:** S&H Drilling  
**Alleged Excavator:** Austin Smith  
**Complainant:** USIC  
**Facility Type:** Telecom  
**Equipment:** Unknown  
**Root Cause:** Reporting false emergency for a locate ticket  
**Finding:** No violation

**EB19-0016-**

**Alleged Violator:** L&R Plumbing  
**Alleged Excavator:** Jose Ramirez  
**Complainant:** Atmos  
**Facility Type:** Gas  
**Equipment:** Backhoe  
**Root Cause:** Failure to use reasonable care  
**Finding:** In violation for failure to use reasonable care in the safety zone, L&R Plumbing ordered to pay a civil penalty of \$100, and Michael Davis ordered to attend compliance training.

**EB19-0017-**

**Alleged Violator:** L&M Electric  
**Alleged Excavator:** Anthony Wilmore  
**Complainant:** Atmos  
**Facility Type:** Gas  
**Equipment:** Backhoe  
**Root Cause:** Failure to notify Tennessee 811  
**Finding:** In violation for failure to notify One-Call prior to excavation and Anthony Wilmore ordered to attend compliance training.

**EB19-0018-**

**Alleged Violator:** JGX Construction  
**Alleged Excavator:** Javier Ortiz  
**Complainant:** Atmos  
**Facility Type:** Gas  
**Equipment:** Unknown  
**Root Cause:** Excavating before the locate ticket was valid  
**Finding:** No violation for using non-mechanized equipment.

**EB19-0019-**

**Alleged Violator:** Engineering & Testing Solutions  
**Alleged Excavator:** Michael Whaley  
**Complainant:** USIC

**Facility Type:** Unknown  
**Equipment:** Unknown  
**Root Cause:** Reporting false emergency for a locate ticket  
**Finding:** In violation for reporting a false emergency for a locate ticket and Michael Whaley ordered to attend compliance training.

**EB19-0021-**

**Alleged Violator:** Pipe Doctor  
**Alleged Excavator:** Adam Jackson  
**Complainant:** KUB  
**Facility Type:** Gas  
**Equipment:** Mini Excavator  
**Root Cause:** Failure to notify Tennessee 811  
**Finding:** In violation for failure to give notice to One Call prior to excavation and Adam Jackson ordered to attend compliance training.

**EB19-0022-**

**Alleged Violator:** Benjamin Franklin Plumbing  
**Alleged Excavator:** Jack McNeil  
**Complainant:** Atmos  
**Facility Type:** Gas  
**Equipment:** Shovel  
**Root Cause:** Failure to notify Tennessee 811  
**Finding:** No violation for using non-mechanized equipment.

**EB19-0026-**

**Alleged Violator:** Byrd Construction  
**Alleged Excavator:** Larry Sneed  
**Complainant:** Rockwood Natural Gas  
**Facility Type:** Gas  
**Equipment:** Trackhoe  
**Root Cause:** Failure to notify Tennessee 811  
**Finding:** In violation for failure to give notice to One Call prior to excavation and Larry Sneed ordered to attend compliance training.

**EB19-0032-**

**Alleged Violator:** RD Construction  
**Alleged Excavator:** Unknown  
**Complainant:** Consolidated Utility District  
**Facility Type:** Water  
**Equipment:** Hydraulic post driver  
**Root Cause:** Failure to notify Tennessee 811  
**Finding:** In violation for failure to give notice to One Call prior to excavation and Ralph Angel ordered to attend compliance training.

**EB19-0034-**

**Alleged Violator:** TDOT  
**Alleged Excavator:** Keith Hartman  
**Complainant:** USIC  
**Facility Type:** Unknown

**Equipment:** Unknown

**Root Cause:** Reporting false emergency for a locate ticket

**Finding:** No violation

**Update of Tennessee 811 Training Program of Violators (Mr. Bill Turner)**

Mr. Turner provided an update of the training program and reported that TN 811 had a recent bilingual training session for the first time. The session generated positive feedback and 15 attendees participated.

**Discussion of future topics for next executive committee meeting (Ms. Sharla Dillon) was referenced but none was stated.**

There was a general discussion, initiated by Mr. Conklin, among Committee members, with respect to a potential rule-making in the future, regarding the Executive Committee's stance and policy on reviewing past violations ("look-back period") and how far in the past to look when determining the penalty for a violator. Mr. Turner provided input as well.

Ms. Balthrop reported the Staff is reviewing cost-efficient means to give those that file complaints an update on the ultimate decision the Executive Committee makes with respect to their complaint.

The Executive Committee meeting adjourned at 11:17 a.m.