



**TENNESSEE UNDERGROUND UTILITY DAMAGE PREVENTION BOARD
EXECUTIVE COMMITTEE MEETING
Meeting on April 17, 2018**

MINUTES

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

Executive Committee Members Present:

Bob Lambert
Steve Raper
Kevin Tubberville, Chairman

Executive Committee Members Absent:

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

Roll Call & Minutes

Sharla Dillon opened the meeting and confirmed that all Executive Committee members were present. The Committee considered the Minutes of the meeting of February 14, 2018. The Minutes were approved as corrected on a voice vote.

Presentation of Investigation of Complaints:

The Committee heard and ruled on the following complaints:

EB17-0219 -

Alleged Violator: Hawkins & Price
Complainant: Atmos Energy
Facility Type: gas
Equipment Used: backhoe
Root Cause: excavating outside the 15-day expiration
Finding: no violation

EB17-0228 -

Alleged Violator: Memphis Fence Company
Alleged Excavator: unknown
Complainant: OSP on behalf of Comcast
Facility Type: cable
Equipment Used: backhoe
Root Cause: failure to use reasonable care
Finding: Administrative closure

EB17-0230 -

Alleged Violator: Union Express Construction
Alleged Excavator: Bryner Enriquez
Complainant: OSP on behalf of Comcast
Facility Type: cable
Equipment Used: trencher
Root Cause: no notification made to Tennessee 811
Finding: Union Express Construction in violation of no notification to One Call prior to Excavation; Bryner Enriquez to attend compliance training

EB17-0235 -

Alleged Violator: MC Communications
Alleged Excavator: unknown
Complainant: Atmos Energy
Facility Type: gas
Equipment Used: boring equipment
Root Cause: failure to use reasonable care
Finding: MC Communications in violation of failure to use reasonable care in the safety zone; Michael Kelly or other field representative to attend compliance training.

EB17-0236 & EB17-0239 - (consolidated into one single complaint)

Alleged Violator: Tiger Landscaping
Alleged Excavator: Mitch Taylor
Complainant: OSP on behalf of Comcast
Facility Type: Cable
Equipment Used: Bobcat
Root Cause: No notification made to Tennessee 811
Finding: Tiger Landscaping violation of no notification made to One Call prior to excavation and Mitch Taylor ordered to attend compliance training.

EB17-0240

Alleged Violator: City of Franklin Water Management
Alleged excavator: James Malugin
Complainant: OSP with Comcast
Equipment Used: trackhoe
Root Cause: Failure to use reasonable care within tolerance zone is root cause
Facility Type: cable
Finding: No violation

EB17-0251 & EB 17-0255

Alleged Violator: R. C. Matthews Contractor
Alleged Excavator: unknown
Complainant: Atmos Energy
Facility Type: Gas
Equipment Used: backhoe
Root Cause: Failure to use reasonable care
Finding: R. C. Matthews Contractor in violation of failure to notify One Call prior to excavation and Brian Chase to attend compliance training

EB17-0259 –

Alleged Violator: Tri-City Fence
Alleged Excavator: Ben McCugh
Complainant: Atmos Energy
Facility type: gas
Equipment Used: post auger
Root Cause: No notification made to Tennessee 811
Findings: Tri-City Fence in violation of no notification to One Call prior to excavation and Ben McCugh to attend compliance training

EB17-0260-

Alleged Violator: Jimmy Wright Construction (as best can be determined)
Alleged Excavator: unknown
Complainant: Tennessee American Water
Facility Type: water
Equipment Used: unknown
Root Cause: unknown
Finding: Administrative closure due to lack of information

EB17-0261 -

Alleged Violator: Ace Fence & Home
Alleged excavator: Diane Moyer
Facility Type: not stated
Complainant: Atmos Energy and Gas
Equipment Used: post hole digger
Root Cause: No notification to Tennessee 811
Finding: no violation

EB17-0262 -

Alleged Violator: D&B Directional Drilling
Alleged Excavator: Les Deere
Complainant: Clarksville Gas & Water
Facility Type: water
Root Cause: Failure to use reasonable care
Finding: no violation

EB17-0265 -

Alleged Violator: Dewayne Jones Construction
Alleged excavator: Tommy Goodwin
Complainant: PRG on behalf of Charter
Equipment Used: grader
Root Cause: Excavating beyond 15-day expiration
Finding: Tommy Goodwin to attend training

EB17-0267-

Alleged Violator: East Tennessee Turf & Landscaping
Complainant: Atmos Energy
Facility Type: gas
Equipment Used: Backhoe
Root Cause: Failure to use reasonable care
Finding: No violation

EB18-0003-

Alleged Violator: Shavron's Concrete Services, LLC
Alleged excavator: Maurice Dalton
Complainant: Atmos Energy
Facility Type: gas
Equipment Used: backhoe
Root Cause: No notification made to Tennessee 811 prior to excavating
Finding: Shavron's Concrete Services, LLC in violation of no notification to One Call prior to excavation and Maurice Dalton to attend compliance training

EB18-0006 -

Alleged Violator: Tennessee Nursey and Landscaping
Alleged excavator: Johnathan Jeffers
Complainant: Atmos
Facility Type: gas
Equipment Used: tree removal equipment
Root Cause: No notification made to Tennessee 811
Finding: Tennessee Nursery and Landscaping in violation of no notification to One Call prior to excavation and Johnathan Jeffers to attend compliance training

EB18-0007 -

Alleged Violator: William Britton
Alleged excavator: William Britton
Complainant: Atmos Energy
Facility Type: gas
Equipment Used: backhoe
Root Cause: No notification made to Tennessee 811 prior to excavating
Finding: William Britton in violation of no notification made to One Call prior to excavation and William Britton to attend compliance training

EB18-0009 -

Alleged Violator: Jackson Jones Retaining Wall
Alleged excavator: Donnie Dye
Complainant: Atmos Energy
Facility Type: gas
Equipment Used: backhoe
Root Cause: No notification made to 811 prior to excavating
Finding: Jackson Jones Retaining Wall in violation of no notification made to One Call prior to excavation and Donnie Dye to attend compliance training

EB18-0011-

Alleged Violator: Concrete Structures
Alleged excavator: David Redden
Complainant: Atmos Energy
Facility Type: gas
Equipment Used: backhoe
Root Cause: Excavating beyond the 15-day expiration
Finding: Concrete Structures in violation of excavating beyond 15-day expiration of dig ticket and David Reddin (*sic*) to attend complaint (*sic*) compliance training.

EB18-0014 -

Alleged Violator: American Excavating and Grading
Alleged excavator: unknown
Complainant: Metro Water
Facility Type: water
Equipment Used: backhoe
Root Cause: No notification made to Tennessee 811
Finding: American Excavating and Grading in violation of no notification made to One Call prior to excavation and Rahim Rahimi to attend compliant (*sic*)

EB18-0015-

Alleged Violator: Blue Sky Construction, Inc.
Alleged excavator: Brian Burns
Complainant: Atmos Energy
Facility Type: gas
Equipment Used: backhoe
Root Cause: No notification made to Tennessee 811 prior to excavating
Finding: Blue Sky Construction in violation of no notification made to One Call prior to excavation and Brian Burns to attend compliance training

EB18-0016 -

Alleged Violator: Lanny Anderson
Alleged excavator: Lanny Anderson
Complainant: Atmos Energy
Facility Type: gas
Equipment Used: backhoe
Root Cause: No notification made to One Call prior to excavation
Finding: Lanny Anderson in violation of no notification made to One Call prior to excavation and Lanny Anderson to attend compliance training.

EB18-0017-

Alleged Violator: The Parkes Company
Alleged excavator: Don Harris; foreman, Rob Pitt; group leader, Greg Wilkerson
Complainant: Atmos Energy
Facility Type: gas
Equipment Used: backhoe
Root Cause: No notification made to Tennessee 811
Finding: The Parkes Company in violation for no notification made to One Call prior to excavation and Greg Wilkerson to attend compliance training.

EB18-0018-

Alleged Violator: Nashville Irrigation & Lighting
Alleged excavator: Zachary Woodson
Complainant: Atmos Energy
Facility Type: gas
Equipment Used: trencher
Root Cause: Failure to use reasonable care
Finding: Nashville Irrigation & Lighting in violation for failure to use reasonable care in safety zone and Zachary Woodson to attend compliance training

EB18-0021-

Alleged Violator: Save-A-Tree
Alleged excavator: Ralph Hickson
Complainant: Atmos Energy
Facility Type: gas
Equipment Used: backhoe
Root Cause: Failure to notify Tennessee 811
Finding: Save-A-Tree in violation of no notification made to One Call prior to excavation and Ralph Hickson to attend compliance training

Presentation of Cost/Fee Request by Tennessee 811 for Training of Violators: No request at this time.

Mr. Turner provided an update of one hundred and thirty seven (137) individuals representing one hundred and six (106) organizations have completed the training. There are forty (40) representing thirty four (34) organizations that TN 811 is aware of that have not scheduled training yet. For fiscal year July through June but calendar year 2017, twenty three (23) classes were conducted between May and December 2017; eighteen (18) classes held at Tennessee 811, five (5) classes held at individual's location or their requested location with a total of one hundred and one (101) individuals that have completed training, representing seventy three (73) organizations.

For 2018 month-to-date, six (6) classes completed, all held at Tennessee 811 with thirty six (36) individuals trained representing thirty three (33) organizations.

Mr. Turner reported the proposed legislation of Board was enacted.

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

Ms. Hammons provided a staff update. The January – March 2018 quarterly report is on website for review. In February there were nine (9) complaints received, twelve (12) in March and ten (10) in April.

Mr. Conklin provided an update on contested cases and show-cause cases. There are four (4) cases currently filed as contested. Another case may be contested but while the company, which is a corporation, has submitted a letter contesting the citation, no attorney for the

violator has yet filed formal documentation. It remains in question because under Tennessee law, any document from a party that is a corporation that initiates a contested case has to be done by attorney.

There were three hearings in March and the violators did not appear. Orders directing them to training are expected shortly.

There are five (5) newly filed cases, of which three (3) may be resolved quickly. One (1) was for non-payment of civil penalty; the civil penalty was received within days after filing that case. Two (2) others are scheduled to attend compliance training and will be dismissed if they follow through.

There are seven (7) more that are in the process of getting ready to be filed. Some positive progress has been made through the process.

Mr. Lambert inquired whether the previous ones that were already in process would be affected by bill passage and the designation of Nashville as the location. Mr. Conklin stated it had no effect as previous provision allowed for a process where the hearing could be conducted by telephone or in Nashville hearing unless there were other requests. As of this date, no hearings had taken place outside of Nashville.

Mr. Turner asked if it was appropriate that the (executive committee) be notified so that they may attend and observe the process. Mr. Conklin advised that the notices should be posted on the (TPUC) website. Mr. Conklin advised that there are reasons not to have members of the Executive Committee observing the process as they may hear such a matter in an appeal.