



**TENNESSEE UNDERGROUND UTILITY DAMAGE ENFORCEMENT BOARD
EXECUTIVE COMMITTEE
Meeting on March 28, 2023**

MINUTES

The Executive Committee meeting of the Tennessee Underground Utility Damage Enforcement Board commenced at 10:00 a.m. in the William R. Snodgrass/Tennessee Tower Building at 312 Rosa L. Parks Avenue, Nashville, Tennessee 37243.

Executive Committee Members Present:

Wayne Hastings, Vice Chairman
Eddie Hood
Kevin Tubberville, Chairman

TPUC Staff Present:

Aaron Conklin, Legal Advisor to the TPUC staff
Ryan McGehee, Legal Advisor to the TUUDEB
Stacy Balthrop
Slayde Warren
Kelly Cashman-Grams (via telephone)

Tennessee 811 Present:

Craig Ingram

Roll Call & Minutes:

Roll call confirmed Chairman Kevin Tubberville, Vice Chairman Wayne Hastings, and Mr. Eddie Hood as present making a quorum. The Committee considered the Minutes from the February 28th meeting. Mr. Hood motioned to approve the Minutes which were approved.

Presentation of Investigation of Complaints:

The Committee heard and ruled on the following complaints:

EB23-0003, EB23-0007, EB23-0008, EB23-0009, EB23-0010, EB23-0012, EB23-0015, EB23-0016, and EB23-0018 -

Alleged Violator: Ticom Enterprises

Alleged Excavator: Rodolfo de Jesus

Complainant: Metro Water and Sewer

Facility Type: Water

Equipment: N/A

Root Cause: Reporting a false emergency for a locate ticket

Finding: In violation for willful misconduct relating to reporting a false emergency for a locate ticket, organizational training is ordered for persons working for Ticom Enterprises, and a civil penalty of \$5,000 is assessed.

EB23-0024-

Alleged Violator: Anstis Seal and Repair

Alleged Excavator: James Anstis

Complainant: Dewhite Utility District

Facility Type: Water

Equipment: N/A

Root Cause: Reporting a false emergency for a locate ticket

Finding: In violation for reporting a false emergency and James Anstis is ordered to attend compliance training.

EB23-0026-

Alleged Violator: Hernandez Plumbing

Alleged Excavator: Lupe Herrera

Complainant: Metro Water and Sewer

Facility Type: Water

Equipment: N/A

Root Cause: Excavating before the locate ticket is valid

Finding: No violation

EB23-0029-

Alleged Violator: KB Underground

Alleged Excavator: Kevin Bird

Complainant: Knoxville Utilities Board

Facility Type: Gas

Equipment: Directional Drill

Root Cause: Failure to use reasonable care within the tolerance zone

Finding: In violation for failure to use reasonable care within the tolerance zone and Kevin Bird is ordered to attend compliance training.

EB23-0030-

Alleged Violator: Sam C. Franklin and Sons

Alleged Excavator: Gabino Herraera

Complainant: Knoxville Utilities Board

Facility Type: Gas

Equipment: Trackhoe
Root Cause: Excavating outside the requested locate area
Finding: No violation

EB23-0031-

Alleged Violator: Serenity Pools
Alleged Excavator: KC Gilbert
Complainant: Knoxville Utilities Board
Facility Type: Gas
Equipment: Trackhoe
Root Cause: Excavating beyond the 15-day expiration
Finding: In violation for excavating beyond a 15-day expiration of locate and KC Gilbert ordered to attend compliance training.

EB23-0033-

Alleged Violator: Cedar Bluff Plumbing
Alleged Excavator: Chris Young
Complainant: Knoxville Utilities Board
Facility Type: Gas
Equipment: Trackhoe
Root Cause: Excavating before the locate ticket is valid
Finding: No violation

EB23-0036-

Alleged Violator: Waller Construction
Alleged Excavator: Tim Waller
Complainant: Knoxville Utilities Board
Facility Type: Gas
Equipment: Trackhoe
Root Cause: Failure to notify Tennessee 811
Finding: In violation for failure to give notice prior to excavation and a civil penalty of \$2,500 is assessed for subsequent violation.

EB23-0037-

Alleged Violator: Alian Cable Construction
Alleged Excavator: Daniel Silas
Complainant: Knoxville Utilities Board
Facility Type: Water
Equipment: Directional Drill
Root Cause: Excavating before the locate ticket is valid
Finding: In violation for excavating before the locate ticket was valid and a civil penalty of \$5,000 is assessed for subsequent violation.

EB23-0038-

Alleged Violator: Markli Construction
Alleged Excavator: Logan Davis
Complainant: Knoxville Utilities Board
Facility Type: Gas
Equipment: Trackhoe
Root Cause: Excavating beyond the 15-day expiration

Finding: In violation for excavating beyond a 15-day expiration of locate and Logan Davis ordered to attend compliance training.

EB23-0039-

Alleged Violator: Foothills Fence

Alleged Excavator: Gabe Emmil

Complainant: Knoxville Utilities Board

Facility Type: Gas

Equipment: N/A

Root Cause: Failure to use reasonable care within the tolerance zone

Finding: No violation

EB23-0047-

Alleged Violator: Alian Cable Construction

Alleged Excavator: Christopher Rodriguez

Complainant: Metro Water and Sewer

Facility Type: Water

Equipment: N/A

Root Cause: Excavating before the locate ticket is valid

Finding: No violation

EB23-0049-

Alleged Violator: Hernandez Plumbing

Alleged Excavator: Lupe Herrera

Complainant: Metro Water and Sewer

Facility Type: Water

Equipment: N/A

Root Cause: Excavating outside the requested locate area

Root Cause: Excavating beyond the 15-day expiration

Finding: No violation

EB23-0050-

Alleged Violator: Two Rivers Excavating

Alleged Excavator: Romulo Turgoos

Complainant: Horton Highway Utility District

Facility Type: Gas

Equipment: Mini Excavator

Root Cause: Failure to notify Tennessee 811

Finding: In violation for failure to give notice prior to excavation and a civil penalty of \$2,500 is assessed for subsequent violation.

EB23-0056-

Alleged Violator: Performance Lighting

Alleged Excavator: Unknown

Complainant: Atmos Energy

Facility Type: Gas

Equipment: Trencher

Root Cause: Failure to use reasonable care within the tolerance zone

Finding: In violation for failure to use reasonable care within the tolerance zone and the company's safety director, or the person in an equivalent position, is ordered to attend compliance training.

EB23-0057-

Alleged Violator: L&G Construction

Alleged Excavator: Hunter Colton

Complainant: Piedmont Natural Gas

Facility Type: Gas

Equipment: Backhoe-Trackhoe

Root Cause: Failure to use reasonable care within the tolerance zone

Finding: In violation for failure to use reasonable care within the tolerance zone and Hunter Colton is ordered to attend compliance training.

EB23-0065-

Alleged Violator: Star Construction Knoxville

Alleged Excavator: Chris Bolton

Complainant: Knoxville Utilities Board

Facility Type: Water

Equipment: Directional Drill

Root Cause: Failure to use reasonable care within the tolerance zone

Finding: In violation for failure to use reasonable care within the tolerance zone and a civil penalty of \$5,000 is assessed for subsequent violation.

EB23-0070-

Vice Chairman Wayne Hastings recused himself from this complaint.

Alleged Violator: Shoffner Kalthoff Mechanical Electrical Service

Alleged Excavator: Owen Despie

Complainant: Knoxville Utilities Board

Facility Type: Gas

Equipment: Trackhoe

Root Cause: Excavating beyond the 15-day expiration

Finding: In violation for excavating beyond a 15-day expiration of locate and a civil penalty of \$2,500 is assessed for subsequent violation.

EB23-0061-

Alleged Violator: Chris Sadler

Alleged Excavator: Chris Sadler

Complainant: Property Owner

Facility Type: Water

Equipment: Plow

Root Cause: Failure to notify Tennessee 811

Finding: Administratively closed.

EB23-0062-

Alleged Violator: GHP Construction

Alleged Excavator: Unknown

Complainant: Texas Eastern Transmission

Facility Type: Gas

Equipment: Bobcat

Root Cause: Failure to notify Tennessee 811

Finding: No violation

EB23-0034, EB23-0035, EB23-0040, EB23-0041, EB23-0051, EB23-0058, EB23-0059, EB23-0068, and EB23-0078 -

Alleged Violator: First Violation

Root Cause: Failure to notify Tennessee 811

Finding: In violation for failure to give notice prior to excavation.

Tennessee 811 and Staff Updates

A written update from Tennessee 811 was provided to the Committee before the meeting and Mr. Craig Ingram was available for questions. Mr. Ingram discussed an added line on the data report to highlight the number of days that pass between citation date and when 811 receives its first contact with a violator to schedule compliance training. With respect to requests made to 811 for emergency locates, Mr. Ingram clarified that generally emergency locates have to be made by phone.

The number of complaints received in February was approximately 30 and 14 in March. There are 32 open investigations. The year to date total is 97. There were 4 administrative closures in February and 2 in March. The assessed civil penalty total is \$343,225 and the fund balance is \$199,435. The administrative and investigative position was reposted. The PHMSA grants are open. No applications had been received for the board's grant program. The Tennessee Gas Association submitted an invoice for their grant and will be showing the product to the board at the next meeting. The Committee briefly discussed the status of pending legislation and nature of some of the information provided regarding the legislation.

Discussion of Future Topics for the Next Executive Committee Meeting

No member of the public sought to make comment during the public comment period.

The Executive Committee meeting adjourned at 11:07 a.m.