

# TENNESSEE PUBLIC UTILITY COMMISSION



Underground Utility Damage Enforcement Board  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, Tennessee 37243

## NOTICE OF HEARING

**IN RE:**                    **SHOW CAUSE PROCEEDING AGAINST  
TIGER LANDSCAPE, LLC FOR ALLEGED  
VIOLATIONS OF TENN. CODE ANN. § 65-31-101 et seq.**

**DOCKET NO.:**        **U19-0043 (EB 17-0236 & EB 17-0239)**

**DATE:**                **June 10, 2019**

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Pursuant to the attached *Order Requiring Tiger Landscape, LLC to Appear and Show Cause Why It Should Not Be Found Liable for Violations of Tenn. Code Ann. § 65-31-101 et seq.*, a Hearing has been scheduled in the above-captioned matter for **Monday, July 15, 2019 at 9:30 a.m. (central)**. The Hearing will be held in Hearing Room G.201 located on the Ground Floor of the Andrew Jackson State Office Building, 502 Deaderick Street, Nashville, Tennessee.

The Hearing Officer will conduct this hearing in accordance with the Tennessee Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-101 *et seq.* Tiger Landscape, LLC shall appear on the aforementioned date and time to show cause why it should not be liable for violations of the Tennessee Underground Utilities Prevention Act, Tenn. Code Ann. §§ 65-31-101 *et seq.* Tiger Landscape, LLC is entitled to be represented by counsel at its own expense.

Participants with disabilities who require special accommodations or alternate communications formats should contact the Tennessee Public Utility Commission ADA-EEO/AA Coordinator/Officer at 502 Deaderick Street, 4<sup>th</sup> Floor, Nashville, Tennessee 37243-0505, 1-800-342-8359 or TDD (615) 741-3930, so that reasonable accommodations can be made.

**FOR THE TENNESSEE UNDERGROUND DAMAGE PREVENTION ENFORCEMENT BOARD:**

A handwritten signature in blue ink that reads "Monica Smith-Ashford".  
Monica Smith-Ashford, Hearing Officer

Original in Docket File  
cc: Parties of Record

**BEFORE THE TENNESSEE UNDERGROUND UTILITY DAMAGE  
ENFORCEMENT BOARD**

**NASHVILLE, TENNESSEE**

<b>IN RE:</b>	)	
	)	
<b>SHOW CAUSE PROCEEDING AGAINST</b>	)	<b>Docket No. U19-0043</b>
<b>TIGER LANDSCAPE, LLC FOR ALLEGED</b>	)	<b>(EB17-0236 &amp; EB17-0239)</b>
<b>VIOLATIONS OF TENN. CODE ANN.</b>	)	
<b>§ 65-31-101 et seq.</b>	)	

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**ORDER REQUIRING TIGER LANDSCAPE, LLC TO APPEAR AND SHOW CAUSE  
WHY IT SHOULD NOT BE FOUND LIABLE FOR VIOLATIONS OF TENN. CODE  
ANN. § 65-31-101 et seq.**

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This matter is before the Hearing Officer of the Tennessee Underground Utility Damage Enforcement Board (“UUDEB”) to determine whether a Show Cause Order should be issued and sanctions imposed against Tiger Landscape, LLC (“Tiger”) for violation of the Tennessee Underground Utility Damage Prevention Act (“Underground Act”), Tenn. Code Ann. § 65-31-101 et seq. For this reason, the UUDEB Investigative Staff (“Party Staff”) has presented its *Amended Petition* and the Amended Affidavits of Slayde Warren, Jaclyn Hammons, and Stacy Balthrop attached in support thereof, setting forth the allegations against Tiger. Based thereon, Party Staff requests the issuance of a show cause order requiring Tiger to appear before the Hearing Officer and show cause why it should not be liable for violations of the Underground Act.

**JURISDICTION**

The Hearing Officer is empowered to hear this matter and render an order pursuant to the authority granted in Tenn. Code Ann. § 65-31-116.

### **RELEVANT FACTS**

1. Respondent is a limited liability company organized under the laws of the state of Tennessee with a principal address of 426 Forest Hill Irene Rd. S. Cordova, Tennessee. Its Registered Agent is Douglas R. Beaty located at 8130 Country Village Drive, Ste. 101, Cordova, Tennessee.

2. On or about October 10, 2017, Tiger performed excavation at Oak Hollow Drive, west of Oak Ridge, Oakland, Tennessee ("Excavation Site").

3. Tiger utilized mechanized equipment, namely, a bobcat, during the excavation performed at the Excavation Site.

4. Tiger did not provide notice prior to excavation at the Excavation Site as required by Tenn. Code Ann. § 65-31-106.

5. During his excavation at the Excavation Site, Tiger damaged an underground facility of Comcast Cable Communications, Inc.

6. On or about October 30, 2017, Tiger performed excavation at 2284 N. Forest Hill Irene, Cordova, Oakland, Tennessee ("Excavation Site 2").

7. Tiger utilized mechanized equipment, namely, a bobcat, during the excavation performed at Excavation Site 2.

8. Tiger did not provide notice prior to excavation at Excavation Site 2 as required by Tenn. Code Ann. § 65-31-106.

9. During its excavation at Excavation Site 2, Tiger damaged an underground facility of Comcast Cable Communications, Inc.

10. On or about April 17, 2018, upon presentation of the Complaint Number EB17-0236 and Complaint Number EB17-0239 for consideration, the Committee consolidated the two Complaints and found Respondent in violation of Tenn. Code Ann. § 65-31-106 for failing to provide notice to the one-call service prior to excavation. An excerpt of the transcript of the Executive Committee meeting addressing the Complaint is attached hereto as Exhibit 1 and is incorporated as if stated herein verbatim.

11. More than thirty (30) days have passed since the issuance of the Citation to Respondent. Neither Mitch Taylor, nor any other person on behalf of Respondent, has completed the compliance training course as of the date of the filing of the *Petition*.

#### **ALLEGED VIOLATIONS OF STATE LAW**

The following actions alleged in the *Petition* and the Affidavits of Slayde Warren, Jaclyn Hammons, and Stacy Balthrop to have been performed by Tiger constitute violations of state law:

A. Tiger failed to provide notice of intent to excavate or demolish in violation of Tenn. Code Ann. § 65-31-106.

#### **COUNT 1:**

Each excavator is required to provide notice of intent to excavate or demolish as required by Tenn. Code Ann. § 65-31-106, which states in pertinent part:

(a) Except as provided in § 65-31-109, before beginning any excavation or demolition operation described in § 65-31-104, other than an impending emergency as defined in § 65-31-102, each person responsible for such excavation or demolition shall serve written, telephonic or e-mail notice of intent to excavate or demolish at least three (3) working days prior to the actual date of excavation or demolition, but not more than ten (10) full working days prior to such time, unless a different period has been agreed

to in writing by the person responsible for the excavation or demolition and the operator or designated representative.<sup>1</sup>

B. Tiger failed to complete a course of training concerning compliance with the Underground Act in violation of Tenn. Code Ann. § 65-31-112.

**COUNT 2:**

Tiger, by and through Mitch Taylor, has failed to complete a course of training concerning compliance with the Underground Act in violation of Tenn. Code Ann. § 65-31-112(a)(1), which states, in pertinent part:

(1) For a first violation, the violator shall complete a course of training concerning compliance with this chapter as determined by the executive committee.<sup>2</sup>

**BASED UPON THE FOREGOING INFORMATION**, as presented by the Party Staff and filed in the docket file, the Hearing Officer, acting pursuant to and within the scope of the Hearing Officer's authority granted under Tenn. Code Ann. § 65-31-116, hereby determines that Tiger Landscape, LLC should be required to appear and show cause why it should not be found in violation of state law and the Hearing Officer should not immediately impose civil penalties and sanctions to the maximum extent allowed by law.

**BE IT THEREFORE ORDERED THAT:**

Tiger Landscape, LLC is hereby ordered and shall appear before the Hearing Officer of the Tennessee Underground Damage Prevention Enforcement Board on **July 15, 2019 at 9:30 a.m. (CDT)** to show cause why the Hearing Officer should not proceed to take

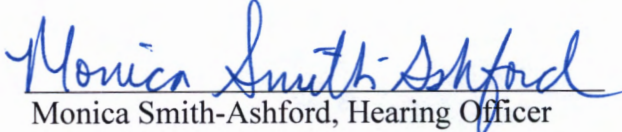
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<sup>1</sup> Tenn. Code Ann. § 65-31-106 (2015).

<sup>2</sup> Tenn. Code Ann. § 65-31-112(a)(1) (2015).

action against Tiger Landscape, LLC for the unlawful actions and omissions alleged in the *Petition*.

The Show Cause Hearing in these proceedings will commence promptly, as noted above, in **Hearing Room G.201**, located on the ground floor of the **Andrew Jackson State Office Building, 500 Deaderick Street, Nashville, Tennessee**. Participants with disabilities who require special accommodations or alternate communications formats should contact the Tennessee Public Utility Commission ADA-EEO/AA Coordinator/Officer at 502 Deaderick Street, 4<sup>th</sup> Floor, Nashville, Tennessee 37243-0505, 1-800-342-8359 or TDD (615) 741-3930, so that reasonable accommodations can be made.



Monica Smith-Ashford, Hearing Officer