



TENNESSEE UNDERGROUND UTILITY DAMAGE ENFORCEMENT BOARD
Meeting on January 9, 2024

MINUTES

The board meeting of the Tennessee Underground Utility Damage Enforcement Board commenced at 10:07 a.m., at the Tennessee Public Utility Commission, 502 Deaderick Street, Ground Floor Conference Room, Nashville, TN, 37243.

Board Members Present:

Kevin Tubberville, Chairman
Wayne Hastings, Vice Chairman (Via telephone)
Earl Bolin (Via telephone)
Milton Henderson
Eddie Hood
Charles Key (Via telephone)
Jarrod Brackett (Via telephone)
Bob Pitts
Lance Sledge
Bill Turner
Steve Raper
Scott Niehaus
Rob Arnold (Via telephone)

Board Members Not Present:

Tim Settles
Doug Wagner

TPUC Staff Present:

Ryan McGehee, Legal Advisor to the TUUDEB
Aaron Conklin, Legal Advisor to the TPUC staff
Stacy Balthrop, Director, Consumer Services
Kelly Cashman-Grams
Brittany Shaw

Also Present:

Craig Ingram, TN 811

Current Vacancies:

Interstate Pipeline

Natural Gas

Public Water/Wastewater

Municipal Electric

I. Opening of Meeting and Roll Call

Roll call showed eight (8) members present in the room and five (5) members participating via phone. A physical quorum was met.

II. Review and Adopt Board Meeting Minutes

The Board considered the Minutes of the last meeting on November 2, 2023. The motion to approve the Minutes meeting passed. Mr. Bob Pitts asked to make a small amendment to the wording prior to posting.

III. Program and Legislative Updates

Brittany Shaw from TPUC gave the program update. At the time of the meeting, 29 complaints were received in the month of December. There were 36 open investigations. The year-end total was 360 compared to last year where a total of 332 complaints were received. The year closed 28 ahead of last year. There were 5 staff administrative closures for the month of December. Samantha Lamon from fiscal provided a financial report which was reviewed by the Board. The total amount of civil penalties assessed since program inception including those dismissed and refunded is \$427,600 and the current fund balance is \$214,975. There were no updates on PHMSA grants or outreach activities.

IV. Training Program Updates by Tennessee 811

Craig Ingram from TN 811 provided the TN 811 training program update reporting that they had not provided any training since the December meeting, however the year concluded with 136 individuals training, which is three more trained than in 2022.

V. TN 811 Report on Allocation and Collection on Annual Invoices from FY 2020, 2021 through FY 2022 to 2023 in Accordance with Section 2.3 of the Memorandum of Understanding

Mr. Bill Turner provided the Board with documents regarding program costs and billing from Fiscal Years (FY) 2020-2023. He informed the Board that due to budgeting; this year was the first year 811 had to bill its members for program costs. In the previous years, they used "obligated cash" from collected money to fund the programming. With regard to billing, Mr. Turner explained that 811 engages in "proportional" billing of its members based

on impact wherein if a member gets ten percent of the ticket volume, they pay ten percent of the budget. The cost of the program for FY 2023 came to be \$117,497. 811 divided that number with the revenue generated from ticket distributions which resulted in 1.63% of its members' fees. 811 then uses a portion of that fee to offset the cost of the Enforcement Board. For members with minimal impact (i.e., those with less than 100 tickets a year) they are charged a flat fee of \$250 and are not subject to proportional billing. Invoices for FY 2024 were being sent out as of the time of the meeting.

Following Mr. Turner's presentation, Mr. Steve Raper inquired as to whether charging minimal members a flat fee of \$250 was still a reasonable approach. Mr. Turner responded that although they reconsider around each billing cycle, the \$250 amount seems to attract small utilities and keeps them responsible. In the event that they switched to cost-per-ticket and a small utility only called in ten tickets, money would be lost. Currently, there are ninety (90) minimal members.

VI. 2024 Legislation

Attorney Aaron Conklin gave an update on proposed legislation previously approved by the Board at the November 2 meeting. Prior to the meeting, Mr. Conklin sent the Board members a draft of the bill which included amendments to the section regarding preserving the Executive Committee's ability to send someone to training, despite now having the power to issue civil penalties for first-time violations. Mr. Conklin further explained that the legislation was ready to go and that they were in the process of obtaining sponsors to introduce the legislation on behalf of the Board. Additionally, discussion ensued regarding the amendment of the definition of "emergency" and whether it needed to be updated to reflect "electronic" vs. "oral" notification. Mr. Conklin agreed to review the language and make revisions to the language as appropriate.

Mr. Conklin noted that there was some previous discussion about ticket length and Mr. Lance Sledge gave a brief presentation on the number of damages per thousand locate tickets in each state compared to their respective ticket lives. A review of the numbers indicates that in states where ticket life was longer, there were better damage rates than shorter with shorter ticket life, however, not by much. Mr. Sledge explained that the data was obtained from AT&T's claims department and may include damages not related to excavation, but they could probably be filtered out. Brief discussion ensued and concluded with an option for further discussion for future legislation.

VII. Discussion of Future Topics

The next Board Meeting will take place on April 9, 2024, at 10:30am. Mr. Bob Pitts motioned to amend certain wording in the previous minutes prior to posting.

There was no public comment and the meeting concluded at 11:04 am.