

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA, *ex rel.*

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STATE CORPORATION COMMISSION

v.

2024 APR 25 A 10:43  
CASE NO. URS-2022-00344

T & A UNDERGROUND, INC.,  
Defendant

**REPORT OF C. MITCH BURTON, JR., HEARING EXAMINER**

April 25, 2024

This case involves an alleged violation by T & A Underground, Inc. ("Defendant"), of the Underground Utility Damage Prevention Act ("Act"), § 56-265.14 *et seq.* of the Code of Virginia and the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act, 20 VAC 5-309-10 *et seq.* ("Damage Prevention Rules"). I recommend that the State Corporation Commission ("Commission") enter an order accepting a proposed settlement in this matter.

**History of the Case**

On October 12, 2023, the Commission issued a Rule to Show Cause ("Rule") against the Defendant based upon allegations made by the Commission's Division of Utility and Railroad Safety ("Division"). Specifically, the Division alleged the Defendant violated §§ 56-265.24 A, 56-265.24 C, and 20 VAC 5-309-150 (A) (8) of the Damage Prevention Rules.<sup>1</sup> The Division recommended imposition of a civil penalty not to exceed \$2,500 for each violation alleged.<sup>2</sup> The Division further recommended that, pursuant to § 12.1-13, the Commission enjoin the Defendant from further violations of the Act and Damage Prevention Rules.<sup>3</sup>

Among other things, the Rule scheduled a hearing for December 13, 2023; established November 30, 2023, as the Defendant's deadline for filing a response to the Rule; explained the Defendant may negotiate a settlement by contacting the Commission's Office of General Counsel; and assigned this matter to a Hearing Examiner to conduct all further proceedings.<sup>4</sup> The Rule also indicated the hearing would be conducted electronically by Microsoft Teams, unless the Defendant requested to appear in person.<sup>5</sup> The Defendant did not file a responsive pleading.

During the December 13, 2023, hearing, counsel for the Division moved for a general

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<sup>1</sup> Rule at 1-2.

<sup>2</sup> *Id.* at 2.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 3-5.

<sup>5</sup> *Id.* at 4.

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continuance of this matter.<sup>6</sup> In support of this oral motion, counsel for the Division represented that the Defendant had expressed interest in settling the matter. I granted the continuance.

### **Summary of the Record**

On April 18, 2024, the Division filed a Motion to Accept Settlement. The Motion to Accept Settlement stated the Defendant had agreed to pay a \$2,950 civil penalty, which has been received by the Division.<sup>7</sup>

The Motion to Accept Settlement requested the Hearing Examiner recommend that the Commission enter an order: (i) granting the Motion to Accept Settlement; (ii) accepting the proposed settlement of the Rule in this matter; and (iii) dismissing this matter from the Commission's docket of active cases.<sup>8</sup>

### **Discussion**

Upon consideration of this matter, I find that the Motion to Accept Settlement should be granted and recommend that the Commission accept the proposed settlement of the Rule.

### **Findings and Recommendations**

I find that:

1. The Division's Motion to Accept Settlement should be granted.

Accordingly, **I RECOMMEND** the Commission enter an order:

1. ***ADOPTING*** the findings of this Report;
2. ***ACCEPTING*** the Division's proposed settlement of the allegations contained in the Rule to Show Cause; and
3. ***DISMISSING*** this matter from the Commission's active cases.

### **Comments**

The parties are advised that, pursuant to Rule 5 VAC 5-20-120 C of the Rules of Practice and Procedure ("Rules") and § 12.1-31 of the Code, any comments to this Report must be filed on or before May 9, 2024. To promote administrative efficiency, the parties are encouraged to file electronically in accordance with Rule 5 VAC 5-20-140 of the Rules. If not filed electronically, an original and fifteen (15) copies must be submitted in writing to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Any party filing such

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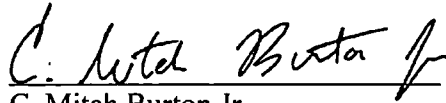
<sup>6</sup> Tr. 37.

<sup>7</sup> Motion to Accept Settlement at 2.

<sup>8</sup> *Id.*

comments shall attach a certificate to the foot of such document certifying that copies have been served by electronic mail to all counsel of record and any such party not represented by counsel.

Respectfully submitted,



C. Mitch Burton Jr.

Hearing Examiner

The Clerk of the Commission is requested to send a copy of this Report to Angela I. Rincon, President, T & A Underground, Inc., 2004 Sparrow Road, Chesapeake, Virginia 23320; Stephanie C. Smith, Registered Agent, T & A Underground, Inc., 2901 South Lynnhaven Road, Suite 120, Virginia Beach, Virginia 23452; and a copy shall be delivered to the Commission's Office of General Counsel and Division of Utility and Railroad Safety.