



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

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May 26, 2016

Steven V. King, Executive Director and Secretary
Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, WA 98504-7250

**RE: Commission Staff's Response to Application for Mitigation of Penalties
Docket DG-160328, Town and Country Tree Service**

Dear Mr. King:

On April 18, 2016, the Utilities and Transportation Commission (commission) issued a \$1,000 Penalty Assessment in Docket DG-160328, against Town and Country Tree Service (Town and Country) for one violation of RCW 19.122.030(1)(a), for failing to request a dig ticket prior to performing an excavation. RCW 19.122.055(1)(a) states, in part, that any excavator who fails to notify a one-number locator service and causes damage to a hazardous liquid or gas facility is subject to a civil penalty of not more than \$10,000 for each violation.

On May 5, 2016, Town and Country wrote the commission requesting mitigation of the penalty. In its request, Town and Country stated the violation should be mitigated for the following reasons:

1. Locates were already requested by Whitman College.
2. The gas company thought the gas was in the alley so they failed to locate the gas line.
3. Town and Country was not originally tasked with removing the stump, just removing the tree, which is why they did not request locates prior to beginning work.
4. Since it was summer and there was no one in the building when the damage occurred, no evacuation actually took place.

Violation: On July 2, 2015, Town and Country was grinding a tree stump at 602 E. Main St. Walla Walla, Washington. Prior to grinding, which is considered excavation under RCW 19.122.020, Town and Country failed to request a dig ticket from a one-number locator service to have the underground utilities located. While grinding the stump, Town and Country damaged a 1-inch steel natural gas service line owned by Cascade Natural Gas Corporation (CNGC). The damage put one customer out of service and led to the evacuation of one building.

Respect. Professionalism. Integrity. Accountability.

Staff recommends the request for mitigation be rejected based on consideration of the following factors:

1. **How serious or harmful the violation is to the public.** The violation is serious and potentially harmful to the public. Companies that dig without first obtaining an underground utility locate are putting their employees, the public and the facility operator's employees at risk. The damage incident could have resulted in fire or an explosion.
2. **Whether the violation is intentional.** Considerations include:
 - Whether the Company ignored Staff's previous technical assistance; and
 - Whether there is clear evidence through documentation or other means that show the Company knew of and failed to request underground utility locates.

The violation does not appear to be intentional. On this job, Town and Country was told by Whitman College that locates had already been requested. Although Whitman College had requested locates, Town and Country must request locates for themselves for the work they are doing. The boundary of the locates that Whitman College requested did not include the tree that Town and Country was removing, nor did it describe stump grinding as part of the work to be done.

According to Town and Country, stump removal was not initially included in this job, which is why they did not request underground utility locates. Town and Country is aware that they are required to request their own locates but because they did not plan to excavate on this job and because they believed no utilities were near the stump, they did not request locates prior to beginning work.

3. **Whether the Company self-reported the violation.** Town and Country notified CNGC of the damage, but did not submit a Damage Incident Reporting Tool report following the incident.
4. **Whether the Company was cooperative and responsive.** Staff spoke to Larry Moore, the owner of Town and Country, who was cooperative and responsive.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** Town and Country has indicated that they intend to call locates when grinding tree stumps. However, a CNGC employee has told staff that Town and Country has been seen grinding stumps before locates have been placed since this incident took place.
6. **The number of violations.** There is one violation.
7. **The number of customers affected.** One customer lost natural gas service and five individuals were evacuated as a result of this incident.

8. **The likelihood of recurrence.** Town and Country has not been involved in subsequent natural gas damage incidents, however, CNGC staff reported that Town and Country has been seen grinding stumps before underground utility locates were in place following this incident. This leads commission staff to believe that similar incidents are possible.
9. **The Company's past performance regarding compliance, violations, and penalties.** The company has no previous history with the commission.
10. **The Company's existing compliance program.** Staff is not aware of a compliance program in place, however, Larry Moore has indicated that he is the person responsible for requesting locates.
11. **The size of the Company.** According to the Department of Labor and Industries database, Town and Country employs between 1 and 3 workers, and has no safety violations.

If you have any questions regarding this recommendation, please contact Derek Norwood at (360) 664-1296, or dnorwood@utc.wa.gov.

Sincerely,



Alan E. Rathbun
Pipeline Safety Director