



General Contractor, Site Development

Rayne Pearson
Deborah Becker

October 22, 2020

Washington Utilities and Transportation Commission

Investigation #8169

To WUTC:

Received
Records Management
10/23/20 15:32
State Of WASH.
UTIL. AND TRANSP.
COMMISSION

Thank you for the time you spent with me on the phone on October 8th, 2020 to discuss the Notice of Penalty assessed against Edge West LLC.

I would like to dispute the Penalty and submit a written explanation describing the facts as I believe them to be.

I understand that all contact or written notices were mailed to an incorrect address. Our current mailing address is PO Box 400, Poulsbo WA, 98370. Our office address is 19717 Front Street NE, Poulsbo, WA 98370. We have not had a business address in Port Orchard for over 5 years, so any correspondence sent to any address other than PO Box 400 was not received. I did not sign for any certified mail delivery or receive any notice from your organization.

TREP February 26th:

On February 26, 2019 one of our excavation operators did breach a gas line on the project in Bremerton know as The Ridge at East Park. The operator was trenching along the utility's corridor. The ground was frozen solid and as a frozen clump of dirt was pulled up, the gas corp stop supply valve was torn off the pipe because it had become frozen into the dirt clump.

The depth of the gas line was at 18" inches and the cover over the gas line in that specific location was less than 12" inches. That is how the valve was frozen into the dirt. Edge did not install the gas line or uncover the dirt over the gas line prior to work.

Edge did provide a locate # at the time of the breach to the Cascade Natural Gas response crew. The locate # was used for 4 home lots along the dig corridor. The Edge crew was aware of the gas line location and was taking precautions to not damage the line. The gas line was much shallower than the typical 3'-4' feet deep.

Prior to this incident Edge had zero breaches of utilities on this site and called 811 locate service before we began our projects on that site.

Here is some additional information about this site. We discovered many problems concerning the gas lines and frequently contacted Cascade Natural Gas regarding the problems. We made every

attempt possible to ensure the security of the utilities and cause no damage. We worked on many homes on this housing project with out any additional breaches despite the many problems encountered with gas and power lines.

Andasio June 5th:

On June 5th 2019, the builder asked one of Edge's laborers to assist him in lowering the grade of a driveway prior to pouring concrete. When the laborer was scratching off the top layer of the construction entrance, he tore a gas feed to the neighboring house that was crossing the driveway.

The gas feed should have not been crossing the driveway of the adjacent house and was not 2' feet deep. The laborer was not authorized to operate any equipment and was working under the direction of the builder without my knowledge.

The gas feed was very shallow and was crossing a driveway outside the utility's corridor. There was no locate called in prior to scaping off the driveway.

Edge West LLC calls in locates prior to any excavation on all projects we work on as documented at 811. We work very cautiously around all utilities corridors and have not had any breaches in over one year.


I am requesting that no monetary penalty be assessed. Our company also conductus's quarterly dig safety education for the 5 employees we have at this time. We are always willing and able to continue our education on dig safety.

Due to the recent shut down for COVID 19 and the sluggish start up of our business, any financial penalties will be a hardship.

Thank you for your assistance regarding this matter. Please reach out to me at your earliest convenience to further discus a resolution to this matter.

Sincerely,

Kevin Abrams



Service Date: August 19, 2020

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

**NOTICE OF PENALTIES INCURRED AND DUE
FOR VIOLATIONS OF LAWS AND RULES**

PENALTY ASSESSMENT: DG-200424
PENALTY AMOUNT: \$6,000
Investigation # 8169

UBI: 603-05-022
Phone: (360) 551-2318

Edge West, LLC
1386 SE Lund Ave., Ste 16
Port Orchard, WA 98366

The Washington Utilities and Transportation Commission (Commission) believes that Edge West, LLC, (Edge West or Company) has violated Revised Code of Washington (RCW) 19.122.055 by failing to provide the required notice to facility operators through a one-number locator service prior to excavating and subsequently damaging underground natural gas facilities. RCW 19.122.055 states, in part, that any excavator who fails to notify a one-number locator service and causes damage to an underground hazardous liquid or gas facility is subject to a civil penalty of not more than \$10,000 for each violation.

Commission staff (Staff) conducted an investigation that included reviewing damage reports submitted by Cascade Natural Gas Corporation (CNGC) that identified natural gas damage events involving Edge West. Accordingly, the Commission hereby notifies you that it is assessing a \$6,000 penalty against the Company on the following grounds:

First Violation

On February 26, 2019, Edge West struck and damaged a CNGC natural gas line while excavating at 2427 Seringa Ave., Bremerton, Washington. On February 28, 2019, CNGC submitted a Damage Incident Reporting Tool (DIRT) report identifying the Company as the party responsible for damaging the natural gas service line. Staff was unable to find a valid dig ticket for Edge West at this location on this date.

The Commission mailed an Alleged Violation of Washington Dig Law letter to the Company on June 5, 2019, that included detailed information about the requirements of Washington state's underground utility damage prevention act and the possibility of penalties for each violation of the statute.

Second Violation

On September 26, 2019, Edge West struck and damaged a CNGC underground gas line while excavating at 4251 Andasio Loop SE, Port Orchard, Washington. Before beginning excavation, Edge West failed to request a dig ticket from a one-number locator service to locate underground utilities.

On October 2, 2019, CNGC submitted a DIRT report identifying the Company as the party responsible for damaging the natural gas service line. Staff was unable to find a valid dig ticket for the Company at this location on this date.

Staff recommends the Commission assess a \$6,000 penalty against Edge West for two violations of RCW 19.122 for failing to provide the required notice to a one-number locator service before excavating, as follows:

- \$5,000 penalty for the violation of RCW 19.122.055 that occurred on February 26, 2019; and
- \$1,000 penalty for the violation of RCW 19.122.055 that occurred on September 26, 2019.

Staff's research indicates that Edge West submitted 51 requests to locate underground utilities in Washington in 2018, and 62 in 2019. After considering all of the circumstances, Staff recommends that the Commission offer to suspend \$5,000 of the \$6,000 penalty amount for a period of one year subject to the conditions that: (1) the Company incurs no further violations of RCW 19.122 within 12 months of the date of this Notice; and (2) Company management complete Dig Safe Training provided through the National Utility Contractors Association (NUCA) within 12 months of the date of this Notice.

The Commission agrees with Staff's recommendation and assesses a penalty of \$6,000, with an offer to suspend, and ultimately waive, \$5,000 of the \$6,000 penalty amount subject to the conditions listed above. If the Company fails to comply with the conditions, the \$5,000 suspended penalty will become immediately due and payable, in addition to any new penalties that the Commission may assess for the additional violations.

These facts, if not contested or if proved at a hearing and not rebutted or explained, are sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe either or both of the violations did not occur, you may deny committing the violation(s) and contest the penalty through evidence presented at a hearing or in writing. Or, if there is a reason for either or both of the violations that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of the penalty through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request to contest the violations or for mitigation of the penalty must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. *See* RCW 81.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violations or application for mitigation in a Brief Adjudicative Proceeding before an administrative law judge. The administrative law judge will consider the evidence and will notify you of their decision.

You must act within 15 days after receiving this notice to do one of the following:

- Pay the \$6,000 penalty amount due; or
- Pay \$1,000 of the penalty amount and notify the Commission that you accept the offer to suspend, and ultimately waive, the remaining \$5,000 of the penalty amount subject to the following conditions:
 - Company management must attend Dig Safe training provided through NUCA within twelve (12) months of the date of this Notice; and
 - **The Company must submit documentation of attendance to the Commission within five (5) days of attending the training;** and
 - The Company must not commit any further violations of RCW 19.122 within 12 months of the date of this Notice; or
- Request a hearing to contest the occurrence of the violations; or
- Request mitigation to reduce the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

If you do not act within 15 days, the Commission may refer this matter to the Office of the Attorney General for collection. The Commission may then sue you to collect the penalty.

DATED at Lacey, Washington, and effective August 19, 2020.


/s/ Rayne Pearson
RAYNE PEARSON
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT DG-200424, Investigation # 8169

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements:

1. **Payment of penalty.** I admit that the violations occurred and enclose \$6,000 in payment of the penalty.
2. **Accept conditions.** I admit that the violations occurred and have enclosed \$1,000 of the penalty amount. I also accept the Commission's offer to suspend, and ultimately waive, the remaining \$5,000 of the penalty amount subject to the following conditions:
- Company management must attend Dig Safe training provided through NUCA within twelve (12) months of this Notice; and
 - The Company must submit documentation of that attendance to the Commission **within five (5) days** of attending the training; and
 - The Company may not commit any further violations of RCW 19.122 within twelve (12) months of the date of this Notice.
3. **Contest the violation(s).** I believe that the alleged violation(s) did not occur for the reasons I describe below (**if you do not include reasons supporting your contest here, your request will be denied**):
- a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision.
- OR b) I ask for a Commission decision based solely on the information I provide above.
4. **Request mitigation.** I admit the violations, but I believe that the penalty should be reduced for the reasons set out below (**if you do not include reasons supporting your application here, your request will be denied**):

- a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision.
- OR b) I ask for a Commission decision based solely on the information I provide above. — 

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: 10-22-20 [Month/Day/Year], at Peulisbo wro [City, State]

Kevin Abrams
Name of Respondent (Company) – please print


Signature of Applicant

RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”