

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: D-200812
PENALTY AMOUNT: \$5,000
Investigation # 8243

CenturyLink Communications LLC
d/b/a Lumen Technologies Group
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Seattle, WA 98181
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The Washington Utilities and Transportation Commission (Commission) believes that CenturyLink Communications LLC, d/b/a Lumen Technologies Group,¹ (CenturyLink or Company) has violated Revised Code of Washington (RCW) 19.122.030(3)(a) by failing to provide reasonably accurate information about CenturyLink's underground utilities to an excavator. RCW 19.122.070(1) states, in part, that violations of any provision of the chapter are subject to a civil penalty of not more than \$1,000 for an initial violation and not more than \$5,000 for each subsequent violation within a three-year period.

The Commission reviewed findings and recommendations made by the Washington State Dig Law Safety Committee (Safety Committee) and hereby notifies you that it is assessing a penalty of \$5,000 against you on the following grounds:

On September 15, 2020, the Safety Committee heard case 19-079 against CenturyLink and determined the Company violated RCW 19.122.030(3)(a) by failing to provide an excavator with reasonably accurate information by marking the location of its underground facilities. The Safety Committee recommended the Commission assess a \$5,000 penalty against CenturyLink.

Commission staff (Staff) agrees with the Safety Committee's findings of probable violation and the recommended penalty. Staff based this decision on the following information and investigation.

Staff conducted an investigation that included reviewing emails, one-call ticket requests, Damage Incident Reporting Tool reports, and photos submitted by both Johansen Construction Company (JCC or Complainant) and the Safety Committee.

¹ At the time of the violation the Company was known as CenturyLink Communications LLC. On December 1, 2020, CenturyLink Communications LLC became CenturyLink Communications LLC, d/b/a Lumen Technologies Group.

These documents showed that while excavating with a valid dig ticket, JCC found an underground utility line that had not been located by CenturyLink.

The Commission has assessed penalties against CenturyLink for violations of RCW 19.122.030 in 2014, 2015, 2018, and 2020. Because this is a repeat violation, Staff recommends that the Commission assess a \$5,000 penalty against CenturyLink for one violation of RCW 19.122.030(3)(a) for failing to provide reasonably accurate information about its underground utilities to an excavator.

The Commission agrees with Staff's recommendation and assesses a penalty of \$5,000.

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 that any or all 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. Alternatively, if there is a reason for any or all 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 his or her decision.

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

- Pay the \$5,000 amount due.
- Request a hearing to contest the violation(s); 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, Post Office 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 April 7, 2021.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT D-200812, Investigation # 8243

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 \$5,000 in payment of the penalty.

2. **Contest the violation.** I believe that the alleged violation(s) did not occur for the reasons I describe below:

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.

3. **Request mitigation.** I admit the violations, but I believe that the penalty should be reduced for the reasons set out below:

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: _____ [Month/Day/Year], at _____ [City, State]

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.”