



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

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Jan. 10, 2018

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: *Washington Utilities and Transportation Commission v. SEFNCO Communications, Inc.*
Commission Staff's Recommendation to Deny Hearing Request.
Docket PL-171148

Dear Mr. King:

On Dec. 8, 2017, the Utilities and Transportation Commission (commission) issued a \$10,000 Penalty Assessment in Docket PL-171148, against SEFNCO Communications, Inc. (SEFNCO or company) for one violation of RCW 19.122.030(2) for failing to properly submit a utility locate request prior to excavating. This violation was based on a damage incident that occurred on Aug. 2, 2017, where SEFNCO hit and punctured the six-inch McChord Pipeline in Tacoma, WA, which resulted in the spilling of approximately 7,500 gallons of jet fuel.

SEFNCO received the Penalty Assessment notification by certified mail on Dec. 11, 2017. The notification stated that SEFNCO had 15 days from receipt to respond. The company failed to respond in any manner by the Dec. 27, 2017 deadline. On Jan. 5, 2018, staff received SEFNCO's request for an administrative hearing, dated Jan 2, 2018. The company's request provided a brief explanation of their reasons for contesting the violation. Staff opposes this request for a hearing based on SEFNCO's failure to respond within the required time frame, but offers the following in rebuttal to the points of contention offered in the company's request.

The first issue raised by SEFNCO is that they did submit a utility locate request on July 26, 2017, and that they properly outlined the proposed excavation area in white paint. RCW 19.122.030(1) requires that an excavator must mark the boundary of the proposed excavation area in white paint applied on the ground prior to requesting locates. Staff does not dispute that a locate ticket was submitted on July 26, 2017. SEFNCO did submit a locate request for 9911 Pacific Ave., which was assigned ticket number 17284954. The actual damage occurred nearly a block east of the area identified in the company's locate request. Staff believes the company failed to submit a new locate ticket for the actual area where the damage incident occurred.

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Staff's investigation found that SEFNCO only marked a small area in white paint by 9911 Pacific Ave. (Sound Credit Union), where they originally intended to install a new Comcast cable. Even though the locate ticket provided a description that stated the need for locates from the Pacific Ave. to the east side of 100th and A St., staff found that the only area that was marked in white paint was a small corner near Sound Credit Union.

The only locate marks visible along 100th St. (by the Credit Union) were from McChord Pipeline, City of Tacoma Water, Puget Sound Energy (PSE), and Parkland Water. The location of SEFNCO's white paint marks and where these operators marked their utilities is approximately 475 feet from where SEFNCO was directionally drilling when they hit and damaged the McChord Pipeline. Staff based this conclusion on photographs taken and interviews conducted by commission Pipeline Safety Inspectors who were on site within a few hours of the damage event.

The second issue presented by SEFNCO is that their scope of work did not change and their original utility locate request was sufficient. Staff's investigation revealed that on Aug. 1, 2017, the day prior to the damage incident, SEFNCO changed drilling direction paths to the East towards A Street. Instead of calling in a new locate ticket for the change of drilling direction, SEFNCO contacted ELM (contract locator for PSE) directly to have them verify locates in the new work zone. The ELM locator informed SEFNCO that they needed to call in a new utility locate request because of the different work area. The City of Tacoma Water locator was also called directly by SEFNCO and they also informed them that a new utility locate request should be submitted. SEFNCO did not submit a new utility locate request and proceeded to directionally drill east towards A Street, where they ultimately hit the McChord Pipeline on Aug. 2, 2017.

The final issue SEFNCO contends is that they did not damage a City of Tacoma water main during this incident. This argument is not relevant as the commission did not penalize SEFNCO for damaging the water main. Staff merely provided this information in the penalty recommendation because it was discovered during the investigation and provided additional support for the severity of the damage incident, and the proposed penalty amount. Staff was able to verify with the City of Tacoma that their 10-inch water main was in fact struck and damaged by SEFNCO. The City of Tacoma ultimately ended up having to repair a portion of the water main due to the damage caused by SEFNCO.

Staff recommends that the commission deny SEFNCO's request for an administrative hearing based on two factors. First, the company failed to submit a timely request for a hearing. The deadline to submit the request was Dec. 27, 2017, and the commission did not receive SEFNCO's request until Jan. 5, 2018. Additionally, staff attempted to contact the company multiple times prior to the Penalty Assessment being issued to provide fair warning that it was coming, and that they needed to respond within 15 days of receiving it. The company failed to respond to staff's repeated attempts to contact them. Secondly, SEFNCO failed to provide material issues of law or fact concerning the violation which requires consideration and resolution in a hearing. There is no dispute that a utility locate request was submitted by the company. The undisputed fact is that SEFNCO did not properly request a utility locate for the area where the damage incident occurred.

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In closing, staff recommends that the commission deny SEFNCO's request for a hearing and enforce the original \$10,000 penalty issued on Dec. 8, 2017.

Sincerely,

Sean C. Mayo

Pipeline Safety Director