



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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June 3, 2024

NOTICE OF OPPORTUNITY TO RESPOND
(Responses due by 5 p.m., Thursday, June 13, 2024)

RE: *In the Matter of the Penalty Assessment Against Avista Corporation d/b/a Avista Utilities,*
Docket D-240262

On April 18, 2024, the Washington State Dig Law Safety Committee (Safety Committee) filed a Review Committee Decision – Complaint Case 24-013 M&L Construction vs. Avista Corporation. The Safety Committee recommends that the Commission issue a penalty against Avista Corporation d/b/a Avista Utilities (Avista) for failing to locate underground facilities.

Pursuant to Revised Code of Washington (RCW) 19.122.150(3), the Washington Utilities and Transportation Commission (Commission) considers any penalty recommendation provided by the Safety Committee. Penalties in these matters are issued under the signature of the Director of the Administrative Law Division.

Upon reviewing the Safety Committee’s recommendation and Avista’s earlier response, filed in this docket, the Commission requests clarification from the Safety Committee and/or Commission staff (Staff) on Avista’s responsibility to locate unmapped steel gas stubs and whether these facilities are “locatable” within the meaning of the statute.

Under RCW 19.122.030(3)(a), a facility operator is obligated to provide an excavator with reasonably accurate information about the location of its locatable underground facilities by marking their location. “Reasonable accuracy” is defined in RCW 19.122.020(23) as being within twenty-four inches of both sides of an underground facility's outside dimensions. This would appear to impose a broad responsibility upon the facility operator to mark the location of any locatable facilities, even if they are unmapped. The statutes provide limited exceptions for *unlocatable* underground facilities and service laterals in RCW 19.122.030(3)(b) and (c), providing a path for good faith compliance in those instances. However, these provisions do not appear to apply in the case of a locatable facility, such as a steel gas stub. The Commission provides the Safety Committee, Staff, and Avista an opportunity to file comments in this docket discussing whether the underground facilities in this docket were

“locatable” within the meaning of RCW chapter 19.122 and Avista’s resulting responsibilities for locating those facilities for the excavator.

NOTICE IS GIVEN That the Safety Committee, Staff, or Avista may file comments in this docket by 5 p.m., Thursday, June 13, 2024.

/s/ Michael Howard

MICHAEL HOWARD

Director, Administrative Law Division