

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against  TTAP CONSTRUCTION SERVICES, LLC  in the amount of \$10,000	DOCKET DG-160247  ORDER 01  ORDER DENYING MITIGATION
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**BACKGROUND**

- 1 On May 2, 2016, the Washington Utilities and Transportation Commission (Commission) issued Penalty Assessment DG-160247 against TTap Construction Services, LLC (TTap Construction or Company) in the amount of \$1,000, alleging one violation of RCW 19.122.030(1)(a) for failing to request a utility locate prior to performing an excavation on July 27, 2015.
- 2 On May 17, 2016, TTap Construction filed an application for mitigation, admitting the violations and requesting a decision based on the written information provided. TTap Construction provided the following explanation for the violation: “Because TTap Construction had installed utilities at that location prior, they knew the gas line was there and thought the risk of hitting the gas line was low. A new employee started the same day of the incident, therefore he was not as familiar with the job site which led to him damaging the pipeline.”
- 3 On July 7, 2016, Commission staff (Staff) filed a response recommending the Commission deny the Company’s request for mitigation. In its response, Staff explained that TTap Construction was excavating to install water services in a newly constructed residential neighborhood when it damaged a gas line owned by Cascade Natural Gas Corporation. The Company failed to request a utility locate prior to excavation. As a result of the damage, five nearby homes were evacuated. Staff noted that the Company failed to introduce any new information that warrants a penalty reduction.

**DISCUSSION AND DECISION**

- 4 RCW 19.122.030(1)(a) requires excavators to “mark the boundary of the excavation area with white paint applied on the ground of the worksite, then provide notice of the scheduled commencement of excavation to all facility operators through a one-number locator service.” Further, an excavator is prohibited from excavating “until all known facility operators have marked or provided information regarding underground

facilities.”<sup>1</sup> Excavators who violate these provisions are subject to penalties of up to \$10,000 per violation.<sup>2</sup>

5 The Commission considers several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring the company’s compliance.<sup>3</sup>

6 Here, the Company did not introduce any new information that would warrant mitigation of the penalty. Companies that dig without first obtaining an underground utility locate put their employees, the public, and the facility operator’s employees at risk. The damage incident at issue could have resulted in a fire or an explosion. The Company should have obtained a utility locate regardless of whether it believed its employees knew the location of the recently-installed gas lines. Accordingly, we find that the penalty is appropriate in light of the circumstances, and conclude that the Company’s request for mitigation should be denied.

**ORDER**

**THE COMMISSION ORDERS THAT:**

7 (1) TTap Construction Services, LLC’s request for mitigation is DENIED.

8 (2) The \$1,000 penalty is due and payable no later than July 27, 2016.

DATED at Olympia, Washington, and effective July 13, 2016.

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**STEVEN V. KING**  
Executive Director and Secretary

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<sup>1</sup> RCW 19.122.030(5).

<sup>2</sup> RCW 19.122.055(1)(a).

<sup>3</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013) at ¶19.

**NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. As authorized in WAC 480-07-904(3), you must file any request for Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website.**