



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

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June 19, 2019

Mark L. Johnson, Executive Director and Secretary
Washington 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. Johansen Excavating*
Commission Staff's Response to Contest of Violations and Request for Hearing
Docket DG-190243

Dear Mr. Johnson:

On May 2, 2019, the Commission issued a \$1,000 penalty against Johansen Excavating (Johansen or Company) for one violation of RCW 19.122.030. This violation was for a damage incident to an underground natural gas line that occurred on October 11, 2018, in Fife, Washington. Staff's investigation determined that Johansen did not have a valid dig ticket for the area it was excavating when it damaged the underground gas line.

On May 22, 2019, Johansen submitted a contest of violation and request for hearing to the Commission, which included a letter with its explanation, a copy of the dig ticket, photographs pre-and post-excavation, and a map of the work area. Johansen contends that it struck the gas line because a gas lateral in the area covered by the dig ticket had not been marked by the utility locator. The response also asserts that when its water tie-in work began, a change to the design had to be made because of other conflicting utilities underground. As a result, the tie-in area for the water service had to be shifted, which, Johansen states, "in hindsight appears to be slightly outside of the Right Of Way." The photos show that the gas lateral had not been marked in the valid dig area by the utility locator, and the dig ticket shows that Johansen submitted the request to locate utilities right-of-way to right-of-way. The photos and maps also show that where the damage occurred is not in the right-of-way.

During the course of Staff's investigation, a representative from Johansen was unable to be reached for additional information before the investigation was submitted for review by management and administrative law judge. During the review and before the penalty was ordered, Staff was contacted by a representative of Johansen, who sent Staff similar information it provided in its contest of violation. While this information was not considered by Staff before the investigation was submitted for review, Staff had an opportunity to speak with the representative and consider the information before the penalty was ordered. After reviewing the information, Staff determined that the information did not alter the outcome of the investigation, and confirmed that Johansen was digging outside the work area requested by the dig ticket. Furthermore, staff learned that Johansen did not mark the northern boundary of its proposed excavation area with white paint

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to indicate to the utility locator where to locate the utilities. The best information that the utility locator had was the description of the work area on the dig ticket, which requested utility marks right-of-way to right-of-way. Because the damage incident happened outside of the right-of-way on private property of a hotel parking lot, Johansen did not have a valid ticket for where the damage occurred. When the damage occurred, Johansen notified 811 and submitted a new request, which was identical to the original request, but requested an additional 50 feet beyond the right-of-way to also be marked, likely because it realized that where it had damaged the gas line was not in the area covered by its previous ticket.

Johansen's assertion that the lateral it struck had not been marked by the utility locator may be valid based on the photographs it submitted; however, Johansen stipulates that the digging that caused the damage was outside of the area for which the dig ticket was valid. Because Johansen caused damage to an underground gas facility without a valid dig ticket, a violation occurred and the penalty assessed should be imposed as ordered. Johansen's failure to call for a new dig ticket when the work plans changed resulted in damage to an underground gas facility and put guests at the hotel in danger and at an inconvenience while the service was being repaired.

Staff recommends that the Commission deny Johansen's request for a hearing for the violation it is contesting, because the evidence it presented and that Staff considered during and after the investigation confirms that it was excavating outside of the area that was covered by the valid dig ticket and that a violation occurred.

Sincerely,



Sean C. Mayo, Director
Pipeline Safety