



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250

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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. Big D's Excavation, LLC*
Commission Staff's Response to Contest of Violations
Docket DG-190250

Dear Mr. Johnson:

On May 16, 2019, the Commission issued a \$1,000 penalty against Big D's Excavation, LLC (Big D's or Company) for one violation of RCW 19.122.030(6) for failing to request an updated dig ticket prior to continuing excavation and damaging an underground natural gas facility. This violation relates to a damage of an underground natural gas facility caused by Big D's on November 15, 2018, at Road 84 & Massey Dr., Pasco, Washington. The penalty assessed against Big D's includes an offer from the Commission to suspend the entire \$1,000 penalty for a period of 12 months, on the conditions that Big D's does not incur any additional violations of RCW 19.122, and Big D's employees and management responsible for excavation attend Dig Safe Training within 12 months of the Order.

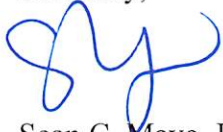
On June 4, 2019, Big D's responded to the Commission's Notice of Penalties by contesting the violation. Big D's included a written response and a photograph of the damaged gas line. Big D's written response states "Gas line was installed at a shallow depth within our subgrade. Line was hit during grading process. See pic. Gas line was not installed to proper depth." Big D's did not indicate whether it requests a hearing to present evidence to an administrative law judge, or whether it was requesting the Commission to decide based solely on the information it provided in its response.

Staff believes that the penalty assessed to Big D's should be enforced without additional consideration by an administrative law judge, because RCW 19.122.030 does not exempt an excavator from penalty based on the depth of a buried gas line. RCW 19.122.030(6) requires that excavators give additional notice to a facility operator if excavation extends beyond the 45-day window for which a dig ticket is valid. Big D's dig ticket for this dig location expired 151 days before the damage incident occurred. RCW 19.122.055(1)(a) states that any excavator who fails to notify a one-number locator services and causes damage to a hazardous liquid or gas underground facility is subject to a civil penalty of not more than ten thousand dollars for each violation. In this instance, Big D's failed to provide the required notice of its continued excavation, and caused damage to an underground natural gas facility. The damage report submitted to the Commission by Cascade Natural Gas Corporation indicates that the depth of the facility was 18 inches.

Respect. Professionalism. Integrity. Accountability.

RCW 19.122.055 and RCW 19.122.030 do not take facility depth into consideration, but do require notice to facility operators for all excavation, including grading, which Big D's was doing at the time of the damage. Additionally, the depth of an underground facility is subject to change based on environmental factors and excavation activity that occurs around the buried line after installation.

Sincerely,

A handwritten signature in blue ink, appearing to read 'SM', is positioned above the typed name.

Sean C. Mayo, Director
Pipeline Safety