



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
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August 27, 2019

Mark L. Johnson, Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

RE: *Washington Utilities and Transportation Commission v. North Sky Communications*
Commission Staff's Response to Application for Mitigation of Penalties
Docket DG-190624

Dear Mr. Johnson:

On August 7, 2019, the Washington Utilities and Transportation Commission (Commission) issued a penalty against North Sky Communications (North Sky or Company) in the amount of \$5,000 for violations of RCW 19.122.030(6), as follows:

- **\$5,000 penalty for the violation of RCW 19.122.030(6)(c) that occurred on January 31, 2019.**

This violation was for a damage incident to an underground natural gas facility on January 31, 2019, that occurred because North Sky failed to provide additional notice to facility operators through the one-call utility locator service as required for excavation continuing after the 45 days of its original utility locate request. North Sky submitted a utility locate request on December 4, 2018 for the jobsite where the January 31, 2018, damage incident occurred. This utility locate request expired 45 days later on January 18, 2019, 13 days before the date of the damage incident.

In its letter to the Commission requesting mitigation, North Sky admitted the violation and explained the substantial measures it has taken over the past 11 months to enhance its safety and training program. The letter stated that it has hired additional safety professionals in order to ensure oversight across all regions of Washington State where North Sky performs excavations. Additionally, North Sky explained its culture of safety, which focuses not just on compliance but on the safety of its employees and the public, and makes this its primary goal, above quality and production, and has taken a holistic, top-down approach to ensuring that proper procedures are followed for each job. North Sky's program includes site visits, employee coaching, dig ticket review, documentation, training, and an extensive on-boarding process for every new employee. Included with North Sky's request was a copy of its trenching and excavation protocol, and documentation showing that over 100 of its employees throughout Washington State completed trench and excavation safety classes facilitated by North Sky between April and June of 2019.

Staff believes that the Company's response and mitigation request with supporting documentation indicates that the Company has improved its processes and made worker and public safety around underground utilities a priority, and that the Company's mitigation request warrants consideration by the Commission. North Sky performs a lot of underground utility installation and work across the state, and has not caused damage to an underground utility without a valid dig ticket since the January 31, 2019 damage incident. The Company has submitted 1,999 utility locate requests between January 31, 2019 and August 20, 2019.

North Sky is a large telecommunications construction contractor with several offices throughout Washington and the lower 48 states. The Company is estimated to have between 70 and 200 employees, and an annual revenue of between \$5 million - \$10 million.

During the investigation, Staff attempted to contact the Company on July 23, 2019, and July 25, 2019. On July 26, 2019, a representative returned Staff's voicemail messages and stated a representative would be in contact regarding the allegations. Staff received this return call on August 15, 2019, six days after the penalty was delivered. For this reason Staff was unable to take into consideration the information the Company provided in its response during the investigation. The Company has provided evidence that it continues to improve its policies, procedures, and employee training regarding dig safety, and has taken steps to prevent future damage incidents. Therefore, staff recommends that the Commission offer to suspend \$2,500 of the \$5,000 penalty amount for a period of 12 months on the condition that North Sky incurs no additional dig law violations within 12 months of the date of the Commission order. The Commission will ultimately waive the \$2,500 suspended penalty amount if North Sky complies with the conditions outlined above. If the Commission discovers any subsequent violations of RCW 19.122 within the 12-month period, the \$2,500 suspended penalty amount will become immediately due and payable, in addition to any penalties that may be assessed for the subsequent violation(s).

If you have any questions, please contact Steve Davidson, Compliance Investigator, Pipeline Safety and Damage Prevention, at (360) 664-1321, or by email at steve.davidson@utc.wa.gov.

Sincerely,

Sean C. Mayo, Director
Pipeline Safety