



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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March 30, 2020

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. DRG Construction*
Commission Staff's Response to Application for Mitigation of Penalties
Docket DG-200135

Dear Mr. Johnson:

On March 11, 2020, the Washington Utilities and Transportation Commission (Commission) issued a penalty against DRG Construction (Company) for \$2,000 for two violations of RCW 19.122.055, as follows:

- \$1,000 penalty for the violation of RCW 19.122.055 that occurred on September 4, 2018; and
- \$1,000 penalty for the violation of RCW 19.122.055 that occurred on July 29, 2019; and
- The opportunity to suspend, and ultimately waive, \$1,500 of the \$2,000 penalty on the conditions that the Company incur no additional dig law violations and owner and field staff responsible for excavations attend NUCA dig safe training within 12 months of the penalty assessment.

These violations were for excavation damage to underground natural gas facilities that occurred because the Company failed to provide notice to facility operators through the one-call utility locator service as required before excavating.

On March 25, 2020, the Company responded to the Commission's penalty assessment by admitting the violations and requesting mitigation, stating that the penalty assessed could financially harm the small business.

The investigation of the damage incidents determined that while DRG Construction did not have its own dig tickets prior to excavating, underground facilities were marked for locate requests submitted by companies also working at the sites. During the investigation, the Company was responsive to Staff's requests for information and phone calls. Additionally, the Company's filing on the Washington Labor and Industries website indicates the Company had 11-20 employees in Q4 of 2019.

In consideration of the factors outlined above and the reasons stated on the Company's application for mitigation of the penalty, Staff recommends granting of the Company's request, and modification to the penalty conditions. The recommended modified penalty would suspend the entire penalty amount for a period of 12 months per the original conditions of the penalty assessment, as follows:

- \$1,000 penalty for the violation of RCW 19.122.055 that occurred on September 4, 2018; and
- \$1,000 penalty for the violation of RCW 19.122.055 that occurred on July 29, 2019; and
- The opportunity to suspend, and ultimately waive, the entire \$2,000 penalty amount on the conditions that the Company incur no additional dig law violations and owner and field staff responsible for excavations attend NUCA dig safe training within 12 months of the penalty assessment.

Staff believes that the modification to the conditions offered in the original penalty assessment is appropriate given current circumstances. Modified conditions will allow the Company to avoid incurring additional financial burden if it complies with the dig law for all work within the next 12 months.

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