



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

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January 20, 2023

Amanda Maxwell, Executive Director
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

RE: *Washington Utilities and Transportation Commission v. T.E. Briggs Construction Co.*
Commission Staff's Response to Contest the Violation
Docket DG-220906

Dear Ms. Maxwell:

On January 4, 2023, the Washington Utilities and Transportation Commission (Commission) issued a penalty against T.E. Briggs Construction Co. (T.E. Briggs or Company) for a violation of RCW 19.122.055(1)(a).

This violation was for damage to an underground natural gas facility, which occurred on June 30, 2022, at 11302 132nd Ave NE, Redmond, Washington. The Company failed to provide the required notice to facility operators through the one-call utility locator service before excavating and subsequently causing damage to an underground natural gas facility.

On January 9, 2023, the Company responded to the Commission's penalty assessment and contested the violation, stating that the Company had a valid locate ticket. The Company provided ticket #22283495 which states; "Mark the entire street width of 112th pl from North PL to South PL from 132nd Ave NE going E to end of cul de sac."

On November 8, 2022, staff communicated by email with the Company and explained that according to the reports and the photo images submitted by Puget Sound Energy (PSE), the location of where the damage occurred appeared significantly outside the scope of the ticket. In the follow-up response from the Company, it acknowledged it "did hit a secondary line that went to a pool heater that had not been located". The Company stated it "elected to not argue and paid the repair costs". Staff reviewed the images and reports from PSE and ELM and the location of the damage is approximately 20' outside the scope of the boundaries for ticket #22283495. During the email exchange, the Company stated it would provide a copy of the incident report to Staff. On December 7, 2022, Staff contacted the Company again and reminded them that if it had documentation, they wanted to be reviewed for this investigation it needed to be submitted by December 12, 2022. Staff did not receive any further information from the Company.

Staff believes the original penalty should be upheld based on consideration of the following factors:

1. **Whether the company demonstrates that the facts considered by the Commission underlying the assessment were incorrect or do not support the penalty assessed.** T.E.Briggs did not demonstrate that the Commission's assessment was incorrect. The information provided in T.E.Briggs contest is the same information that was provided during the investigation and does not explain how the damage location was within the scope of the locate ticket, while Staff's investigation indicated that the damage location was more than 20 feet outside the scope of the ticket that was provided. T.E.Briggs did not provide any additional information that would relieve them of their duty to obtain underground utility locates for the location of where the damage occurred before beginning its excavation.
2. **Whether the company demonstrates that information or factors exist that the Commission may not have considered.** T.E. Briggs did not present any new information that would have changed the findings of the violation or the assessed penalty amount. Staff reviewed the ticket that was provided and determined it did not cover the damage location.
3. **Whether the company explains other circumstances that convince the Commission that this violation did not occur or that a lesser penalty will be equally effective in ensuring compliance.** T.E.Briggs did not explain any other circumstances to support that the violation did not occur. T.E.Briggs did not provide additional information in response to follow-up inquiries from Staff. Prior to making its penalty recommendation, Staff also considered information provided by PSE and the Company's own admission that it accepted the cost of repairs from PSE. Staff considered the need for compliance action along with the needs of the company when setting the recommended penalty amount. Given that the Commission previously issued T.E.Briggs three warning letters. Staff determined that the recommended penalty was fair and necessary given the circumstances of the violation.
 - \$1,000 penalty for one violation of RCW 19.122.055(1)(a) for failing to call the One-Call locate center two business days before beginning excavation.
 - The opportunity to suspend and ultimately waive an \$800 portion of the \$1,000 penalty amount for 12 months if T.E. Briggs completes Dig Safe Training provided through the National Utility Contractors Association (NUCA) within 45 days of the date the Commission issues the Penalty Assessment;
 - And the Company incurs no additional dig law violations within 12 months of the date of the Penalty Assessment.

Scott Rukke

Acting Director, Pipeline Safety