



STATE OF WASHINGTON  
**UTILITIES AND TRANSPORTATION COMMISSION**  
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March 3, 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. Landtek Enterprises, Inc.*  
Commission Staff's Response to Contest the Violation  
Docket DG-230011, Case No. 8668

Dear Ms. Maxwell:

On February 1, 2023, the Washington Utilities and Transportation Commission (Commission) issued a penalty against Landtek Enterprises, Inc. (Landtek or Company) for a violation of RCW 19.122.055(1)(a) as follows:

- **\$1,000 penalty for the violation of RCW 19.122.055(1)(a) that occurred on July 14, 2022.**

This violation was for damage to an underground natural gas facility, which occurred on July 14, 2022, at 3033 Birchwood Ave, Bellingham, Washington. Landtek failed to provide the required notice to facility operators through the one call utility locator service as required before excavating and subsequently causing damage to an underground natural gas facility.

On February 6, 2023, Landtek responded to the Commission's penalty assessment and contested the violation, stating that, on July 8, 2022, it called the One Call Center and requested locates. Landtek explained that when they arrived to start work, they observed utility locate marks within the white-lined area. Landtek explained that the natural gas line it damaged had been missed during the locate process. Landtek provided copies of all the locate tickets called in for that address and none were requested by Landtek Enterprises.

Email communication from Cascade Natural Gas (CNG) stated it did not bill Landtek for this damage because the facility had not been located during the locate process. Commission staff

reviewed the One Call Center database and found two tickets requested on September 9, 2022, but were not requested by Landtek.

RCW 19.122.055(1)(a) is clear in its requirements that an Excavator provide notice to the One Call Center before beginning excavation. 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.**  
Commission Staff assessed that Landtek did not request locates, and that the only locates requested for this damage site were not requested by Landtek, nor were they requested before the date of the damage. Landtek has admitted it could not find its locate request in the One Call Center database, but it did observe locate marks on the ground and believed the marks to be theirs and proceeded with excavation.
2. **Whether the company demonstrates that information or factors exist that the Commission may not have considered.**  
Landtek explained in its response that it had observed locate marks on the ground, and that the damage was not caused due to failing to call for locates, but rather was a result of the locator missing the gas line. Landtek asserts that this damage was the result of a missed locate. Staff reviewed communications from CNG in which it stated it did not bill Landtek for the damages because the gas line had been missed during the locate process.
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.**  
Landtek did not explain any other circumstances to support that the violation did not occur. Prior to making its penalty recommendation, Staff considered information provided by CNG that the locate had been missed, and that Landtek had observed marks on the ground, however, Landtek did not submit a ticket to the One Call Center before excavating. Staff considered the need for a compliance action along with the needs of the company when setting the recommended penalty amount, including offering a deferral option to waive a portion of the penalty amount on the condition Landtek attend Dig Safe training. Given that the Commission previously issued Landtek a warning letter and previously recommended attending Dig Safe training, Staff determined that the recommended penalty was fair and necessary given the circumstances of the violation.

If you have any questions, please contact Joice Hagen, Compliance Investigator at (360) 664-1321, or by email at [Joice.Hagen@utc.wa.gov](mailto:Joice.Hagen@utc.wa.gov).

Sincerely,

Scott Rukke  
Pipeline Safety Director