

## WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Complaint 23-099  
7811 N Panorama Dr.

Ticket Number: 23368320  
Ticket Date: 09/15/2023

### Response to Complaint

#### Summary of Facts:

The work in question was performed by One Call Locators, Ltd., d/b/a ELM Locating and Utility Services ("ELM"), in its capacity as an independent contractor of Avista. In that capacity, ELM respectfully comments as follows.

This damage is a good example of Avista and its locator, ELM One Call Locators ("ELM") working together to promptly and safely repair a damaged underground utility line. The line was damaged late in an afternoon and ELM was on site first thing the next morning and Avista was then out to repair the line. ELM and Avista addressed the damage and ELM paid for the repair.

ELM and Avista do locates thousands of times together and there are damages. This is the case even though ELM has one of the leading safety records in the industry and is a leader in the education of locate technicians for the benefit of the public. Then we have this Safety Commission to oversee damages and to review how companies are working together consistent with the statute to be safe. This includes addressing the event of a damage.

Avista confirms it was in violation of RCW 19.122.030(3)(a) by failing to provide the excavator with reasonably accurate information due to the fact that ELM did not mark a secondary line at the location.

Locating underground facilities is not a perfect science and this is why the word "Damage" is included in the Definitions. The statute goes on to require white paint by the excavator and provides a 24-inch tolerance to the excavator. All measures to decrease the reality that there will be damages.

This is also why RCW 19.122.030 (4)(C) provides for good faith compliance as follows:

- (c) A facility operator's good faith attempt to comply with subsection (3)(b) and (c) of this section:*
- (i) Constitutes full compliance with the requirements of this section, and no person may be found liable for damages or injuries that may result from such compliance, apart from liability for arranging for repairs or relocation as provided in RCW [19.122.050\(2\)](#); and*

ELM submits it performed its duties in good faith, and therefore cannot be found liable for *damages or injuries that may result from such compliance apart from liability for arranging for repairs*. When there is a damage, there is a financial penalty as ELM must pay to repair the damage if the damage was due to its error in locating an underground facility. The goal is public safety at a reasonable price.

In fact, in the context of this damage, ELM's locate technician responsible for the damage was suspended and sent for additional training. ELM takes damages seriously. Again, this is ELM's self-regulation towards safety for the public benefit.

### **The Role of the Commission:**

ELM appreciates the Commission's commitment to ensuring the highest standards of safety and service within our industry. While we acknowledge that there have been instances where we may have fallen short, we believe it is essential to consider the broader context of our safety practices.

ELM is dedicated to maintaining a culture of safety, exemplified by our proactive retraining initiatives following any incidents or damages. Our commitment to continuous improvement and adherence to industry-best safety standards has garnered recognition and acknowledgment from prominent bodies in our field.

ELM has developed and employs an ELM Quality Manual which outlines how ELM ensures quality. Relevant sections include both a Corrective Action Plan and a Preventative Action Plan. ELM maintains sample preventative actions based on actual near miss locates, and we have an Accident Prevention Program which we put together for Washington's Dept. of Labor & Industry. In addition, we have TEAM Auditor Training which is ELM's training program for Auditors & Management.

Further, in Washington, we have added a supervisor, a trainer, and 2 full time auditors just this year.

We kindly request that, even in instances where fault is found, the Commission considers our demonstrated commitment to safety, our swift corrective actions, and the positive industry acknowledgments of our safety record. ELM respectfully requests that the Commission follow the Statute which inquires as to whether there has been a good faith attempt by ELM to be complaint with the Statute. We believe this approach will not only encourage ongoing improvement but also contribute to fostering a safer environment for both our team and the community we serve.

Towards that end ELM would like to point out that our performance for Avista in the Spokane area through the third quarter 2023 is excellent. The Industry standard, what locating companies shoot to achieve, is 1 damage for every 1000 locates ("1/1000"). ELM is currently at less than 1/1000. We are at .44/1000. This is well below industry standards and is the result of our training, review procedures and our positive working relationship with utilities such as Avista.

I am the Chief Executive Office at ELM and I review all training, performance parameters and damages. In the normal scope of my responsibilities, I reviewed the facts related to this locate and am knowledgeable as to this locate and the steps taken by ELM in response thereto.

Respectfully submitted,

*/s/ James Bourazak*

James Bourazak

Chief Executive Officer

One Call Locators, Ltd.