

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

AUTOMATIC DOOR AND GATE CO.

in the amount of \$2,500

DOCKET DG-240960

ORDER 01

ORDER DENYING CONTEST

BACKGROUND

- 1 On February 4, 2025, the Washington Utilities and Transportation Commission (Commission) issued a Penalty Assessment DG-240960 against Automatic Door and Gate Company (Automatic Door and Gate or Company) in the amount of \$2,500, alleging one violation of RCW 19.122.055(1)(a) for failing to notify a one-number locator service and causing damage to a hazardous liquid or gas underground facility on October 10, 2024. The Penalty Assessment offered Automatic Door and Gate the opportunity to suspend \$500 of the penalty on the condition that Company field crew and supervisors successfully complete National Utility Contractors Association (NUCA) Dig Safe training within 90 days, and the Company incur no additional dig law violations within 12 months.
- 2 On February 10, 2025, the Company responded to the Commission's penalty assessment and contested the violation, stating that "Area was excavated by homeowner or homeowner's contractor. We only reported the leak to the owner. We use 811 Dig often and have an account we are very familiar with the law."
- 3 On February 19, 2025, Staff filed a response letter in this Docket recommending the Commission deny the Company's contest of the violation. In its letter, Staff states that during its investigation, on February 12, 2025, Staff requested additional information from the Company to support its claim that the Company did not cause the damage. The Company responded, again denying responsibility and stating that its contract for work states that the customer is to perform the locates. The Company stated it is not authorized to share its contract with anyone outside the Company. The Company explained that "there were other contractors working in the area and that it is possible some other party is responsible." Staff's letter indicates that on February 12, 2025, Staff explained to the Company that RCW 19.122 does not allow homeowners to request locates on behalf of the Contractor. The law requires each excavator to request its own locates.
- 4 Staff's letter also indicated that on February 14, 2025, Staff received a transcript of the phone call from PSE regarding the call it received on the day of the damage. It states that the homeowner placed a call to PSE on October 10, 2025, at 9656 Blake PL, Edmonds. In the phone call the homeowner stated, "We have driveway guys here and they just hit our

gas line, so I need to have somebody come out ASAP.” The PSE representative asked, “The gas line was hit?” Homeowner responded, “correct, the contractor that is out here hit my gas line. They just came in here and told me to call you guys ASAP. They just hit the gas line when they were drilling the conduit.” The PSE representative asked, “is there gas odor?” Homeowner responded “yes.”

DISCUSSION AND DECISION

- 5 RCW 19.122.055(1)(a) considers any excavator who fails to notify a one-number locator service and causes damage to a hazardous liquid or gas underground facility is subject to a civil penalty.” Excavators who violate these provisions are subject to penalties of up to \$10,000 for each violation.¹ Here the commission assessed a penalty of \$2,500 for one violation.
- 6 The Commission denies the Company’s contest of the violations. The disputed facts are those that were fully considered in the original investigation, and the Company has provided no new information.
- 7 We will, however, construe the Company’s submission as a request for mitigation. The Commission considers several factors when evaluating a request for mitigation, including whether the company demonstrates that the facts were incorrect or do not support the penalty assessment, whether the company demonstrates that information or factors exist that the commission may not have considered, and 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.²
- 8 Here, the Company did not introduce any new information that would warrant mitigation of the penalty. Automatic Door and Gate continues to insist that the damage was caused by another party but has failed to provide any evidence to corroborate its claim. RCW 19.122 does not allow homeowners to request locates on behalf of the Contractor. The law requires each excavator to request its own locates. Companies that dig without first obtaining an underground utility locate or dig outside the boundaries covered by a locate ticket, put their employees, the public, and the facility operator’s employees at risk. The damage incident at issue could have resulted in a fire or an explosion. It is the Company’s responsibility to secure a utility locate prior to performing an excavation. Accordingly, we find that the Commission properly penalized Automatic Door and Gate for damaging a pipeline and conclude that the Company’s request for mitigation should be denied.

¹ RCW 19.122.055(1)(a).

² Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013) at ¶19.

9 Therefore, we find that Staff's recommendation to impose the full \$2,500 penalty is appropriate and conclude that the Company's request for mitigation should be denied. However, the Commission's interest in any enforcement action is in ensuring future compliance. Accordingly, we reiterate the offer in the Penalty Assessment to suspend an \$2,000 portion of the penalty subject to conditions. Accordingly, Automatic Door and Gate must take one of the following actions within 10 days of the effective date of this Order:

- Pay the \$2,500 penalty.
- Pay \$500 of the penalty amount and notify the Commission that the Company accepts the Commission's offer to suspend and ultimately waive, the remaining \$2,000 portion of the penalty subject to the conditions that (1) Automatic Door and Gate supervisors and field crew attend NUCA Dig Safe Training within 90 days of the effective date of this order and submit documentation of attendance within five days of completion, and (2) Automatic Door and Gate incurs no additional violations of RCW 19.122 within 12 months of the effective date of this Order.

ORDER

THE COMMISSION ORDERS THAT:

- 10 (1) Automatic Door and Gate Company's contest of the violation is DENIED.
- 11 (2) Automatic Door and Gate Company must either pay the \$2,500 penalty or take the alternative action described in paragraph 9 of this Order.

DATED at Lacey, Washington, and effective March 4, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFF KILLIP
Executive Director and Secretary

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. As authorized in WAC 480-07-904(3), you must file any request for Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website.