

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

**NOTICE OF PENALTIES INCURRED AND DUE
FOR VIOLATIONS OF LAWS AND RULES**

PENALTY ASSESSMENT: DG-250868

PENALTY AMOUNT: \$5,000

Investigation # 9141

EMAIL SERVICE

Bryan Sabari & Celina Scott
Potelco, Inc.
14103 Stewart Road
Sumner, WA 98390-9641
BSabari@Potelco.net
CLscott@Potelco.net

UBI: 278-047-572

Phone: (253) 863-0484

YOU MUST RESPOND WITHIN 15 DAYS OF THIS NOTICE

The Washington Utilities and Transportation Commission (Commission) believes that Potelco, Inc (Potelco or Company) violated Revised Code of Washington (RCW) 19.122.030(1)(a) for failing to mark the excavation area with white lining on the ground of the worksite, and 19.122.030(2) for failing to provide notice to a one-number locator service not less than two full business days before the scheduled work-to-begin-date.

RCW 19.122.030(1)(a), which states, in part, that before commencing any excavation, an excavator must mark the boundary of the excavation area with white lining or, when necessary, white pin flags, applied on the ground of the worksite, then provide notice of the scheduled commencement of excavation to all facility operators through a one-number locator service.

RCW 19.122.030(2) states, in part, that excavators must provide notice to a one-number locator service not less than two full business days and not more than 10 full business days before the scheduled work-to-begin date.

Commission staff (Staff) conducted an investigation that included reviewing damage reports, investigation reports, the One Call Center database, and communications with the Company. The documents reviewed identified a natural gas event that involved Potelco damaging a natural gas facility while excavating without a valid locate ticket.

The Commission reviewed findings and recommendations made by Staff and hereby notifies you that it is assessing a \$5,000 penalty (Penalty Assessment) against you on the following grounds:

1. Alleged Violation 1:

The alleged violation concerns RCW 19.122.030(1)(a) which states, in part, that before commencing any excavation, an excavator must mark the boundary of the excavation area

with white lining or, when necessary, white pin flags, applied on the ground of the worksite.

On August 27, 2025, Commission staff (Staff) received complaint #9 filed by McChord. The complaint alleges that Potelco was excavating at 20th Street East, Fife, Washington on August 26, 2025, and did not mark the boundary of the excavation area with white lining or, when necessary, white pin flags, applied on the ground of the worksite before commencing excavation.

Analysis:

The complaint reported that on August 26, 2025, Potelco called for an emergency locate, ticket #25372803, to replace a utility pole at 20th Street East, Fife, WA. McChord arrived at 2:00 p.m. that same date to mark McChord's jet fuel line. The complaint noted that there was no white paint on the ground and the pole had an old "LOC" in faded white paint marked on it. McChord provided photographs documenting that the white "LOC" was marked on the utility pole and that no white lining was on the ground marking the boundary of excavation.

On September 29, 2025, Potelco responded to Staff's request for information. Potelco was notified by PSE that four utility poles had been classified as an immediate safety hazard following a third-party structural assessment. Potelco noted that the marking of the poles with white paint is consistent with standard industry practices for pole replacement locate requests. The photographs provided by Potelco documented that the poles were marked with white paint but the boundary around the pole was not marked.

On November 13, 2025, Staff confirmed with Washington 811 that it was common practice in the industry when requesting a locate for a utility pole replacement that the pole is marked in white paint and the radius to be marked is described in the description. Staff searched the Washington One Call Center database and confirmed that emergency locate ticket #25372803 was requested by Potelco on August 26, 2025 to replace poles. The ticket instructions requested a 45-foot radius around the white paint be located and the polygon map displayed a circle where the pole was located.

The investigation determined that Potelco failed to white line the boundary of excavation with white lining as required by Washington dig law.

Staff's investigation has determined that Potelco violated RCW 19.122.030(1)(a).

2. **Alleged Violation 2:**

The alleged violation concerns RCW 19.122.030(2) which states, in part, that an excavator must provide notice to a one-number locator service not less than two full business days and not more than 10 full business days before the scheduled work-to-begin date.

On August 27, 2025, Commission Staff received complaint #9 filed by McChord. The complaint alleges that Potelco was excavating at 20th Street East, Fife, Washington on August 26, 2025, to replace a utility pole and did not provide notice to a one-number

locator service not less than two full business days before the scheduled work-to-begin date in violation of RCW 19.122.030(2).

Analysis:

The complaint reported that on August 26, 2025, Potelco called in emergency locate ticket #25372803 to replace a pole at 20th Street East, Fife, WA. McChord arrived at 2:00 p.m. that same date to mark McChord's jet fuel line. McChord called Potelco and requested a call from the foreman but did not receive a return call. Complainant waited on site for four hours, and no crew ever arrived to begin work. The complaint also documented that McChord went to the excavation site the next day, August 27, 2025, at 5:30 a.m. and saw that no work had begun. McChord returned to the site at 8:50 a.m. and found that the work had already been completed. McChord noted that the pole was not visibly damaged, and it did not believe the locate request was an emergency. McChord provided the Excavation Safe Work Checklist that documented McChord's arrival on site and departure times.

On September 29, 2025, Potelco responded to Staff's request for information. Potelco was notified by PSE that four utility poles had been classified as an immediate safety hazard following a third-party structural assessment. On October 1, 2025, Potelco emailed Staff a Quality Control Bulletin describing how an emergency pole is determined. The document identifies poles that fall below the National Electrical Safety Code (NESC) are classified into four categories, one of which is "Priority Non-Restorable Reject" and needs to be replaced "ASAP." The photographs provided by Potelco documented that the poles were tagged with the square white tags depicting the poles as needing to be replaced as soon as possible. Potelco confirmed that the crew responded on the same date that the emergency tickets were requested and completed at least one pole replacement. The crew returned the next morning, August 27, 2025, and replaced the remaining poles. Potelco noted that the Company representative did speak with McChord, but McChord left before the crew's arrival. Staff asked Potelco to verify that the pole replaced on August 26, 2025 was in response to locate ticket #25372803 as noted in the complaint, but Potelco only responded that the crew responded to the site on August 26, 2025, at 6:30 p.m., worked that evening, and finished the project the following day, August 27, 2025.

Staff considered the emergency exemptions as outlined in RCW 19.122.031(1)(a) and the definition of "emergency" per RCW 19.122.020(5) and determined there was no "clear and present danger to life or property", only a recommendation that the pole be changed as soon as possible. Staff does not believe that an emergency existed since the pole was not replaced the night the emergency ticket was requested. Therefore, Potelco did not provide notice to one-number locator service not less than the two full business days as required by the dig law.

Staff's investigation has determined that Potelco violated RCW 19.122.030(2).

The Commission considered the following factors in determining the appropriate penalty amount for the violation:

1. **How serious or harmful the violation is to the public.**
This incident could have been significantly more harmful to Company workers, utility technicians, nearby homeowners, and the public, and it could have resulted in severe injury and loss of property.
2. **Whether the violation is intentional.**
This violation appears to be due to Potelco requesting an emergency locate in a non-emergency situation and failing to white line the boundaries of excavation. Since November 20, 2024, Potelco has submitted 11,419 requests to locate underground facilities in Washington and should understand Washington dig laws.
3. **Whether the company self-reported the violation.**
Potelco was not required to self-report the violation as no damage occurred. Pursuant to RCW 19.122.053(1), only damage events must be reported to the commission.
4. **The likelihood of recurrence.**
The likelihood of recurrence depends on the Company's actions going forward and its willingness to notify the one-number locate service every time before beginning excavation.
5. **The Company's previous violations and penalties.**
 - **Warning Letter**
 - On March 27, 2017, the Commission mailed an Alleged Violation of Washington Dig Law letter to Potelco. The letter included detailed information about Washington State's Underground Utility Damage Prevention Act, requirements for submitting utility locate requests before excavating, and the possibility of penalties for each violation. The Commission mailed the letter after receiving a report of damage caused by Potelco on January 12, 2017, that occurred because the Company failed to submit a request to locate underground utilities before excavating.
 - **Penalty Assessments**
 - On May 9, 2024, the Commission issued Potelco a Penalty Assessment of \$5,000 for one violation of RCW 19.122.030(2) – in docket D-240184.

The Commission has considered these factors and determined that it should penalize Potelco, Inc as follows:

- **First Violation:** \$2,500 penalty for one violation of RCW 19.122.030(1)(a) that occurred on August 26, 2025, at 20th Street East, Fife, Washington.
- **Second Violation:** \$2,500 penalty for one violation of RCW 19.122.30(2) that occurred on August 26, 2025, at 20th Street East, Fife, Washington.

Further violation of RCW 19.122 will result in progressive penalty assessment up to maximum allowable by law.

These facts, if proven at a hearing and not rebutted or explained, are sufficient to support the Penalty Assessment.

Your penalty is due and payable now. If you believe the violation did not occur, you may deny committing the violation and contest the penalty through evidence presented at a hearing or in writing. Or, if there is a reason for the violation that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of the penalty through evidence presented at a hearing or in writing. The Commission will grant a request for a hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request to contest the violation or for mitigation of the penalty must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. *See* RCW 81.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation or application for mitigation in a Brief Adjudicative Proceeding before an administrative law judge. The administrative law judge will consider the evidence and will notify you of their decision.

You must act within 15 days after receiving this Penalty Assessment to do one of the following:

- Pay the \$5,000 penalty amount due; or
- Contest the occurrence of the violation; or
- Admit the violation but request mitigation of the penalty amount.

Please indicate your selection on the enclosed form and submit it electronically through the Commission's web portal at <https://efiling.utc.wa.gov/Form> **within FIFTEEN (15) days** after you receive this Penalty Assessment. If you are unable to use the web portal, you may submit it via email to records@utc.wa.gov. If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, Washington 98504-7250.

If you wish to make your payment online, please use this link: [Make a Payment Now \(wa.gov\)](#).¹

If you do not act within 15 days, the Commission may refer this matter to the Office of the Attorney General for collection.

DATED at Lacey, Washington, and effective November 26, 2025.

/s/Connor Thompson

CONNOR THOMPSON
Director, Administrative Law Division

¹ <https://www.utc.wa.gov/documents-and-proceedings/online-payments/make-payment-now>.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT DG-250868 Investigation # 9141

PLEASE NOTE: You must complete and sign this document and send it to the Commission within 15 days after you receive the Penalty Assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements:

- [] 1. **Payment of penalty.** I admit that the violation occurred:
 - [] Enclose \$5,000 in payment of the penalty.
 - OR [] Attest that I have paid the penalty in full through the Commission’s payment portal.

- [] 2. **Contest the violation.** I believe that the alleged violation did not occur for the reasons I describe below (**if you do not include reasons supporting your contest here, your request will be denied**):
 - [] a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision.
 - OR [] b) I ask for a Commission decision based solely on the information I provide above.

- [] 3. **Request mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reasons set out below (**if you do not include reasons supporting your application here, your request will be denied**):
 - [] a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision.
 - OR [] b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: _____ [Month/Day/Year], at _____ [City, State]

Name of Respondent (Company) – please print

Signature of Applicant

RCW 9A.72.020 "Perjury in the first degree."

- (1) A person is guilty of perjury in the first degree if in any official proceeding he or she makes a materially false statement which he or she knows to be false under an oath required or authorized by law.
- (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his or her statement was not material is not a defense to a prosecution under this section.
- (3) Perjury in the first degree is a class B felony.