



4610 Tacoma Ave  
Sumner, WA 98390  
Main: 877-385-2903  
Fax: 866-492-9650

Jan. 19, 2018

Steven V. King, Executive Director and Secretary  
Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, WA 98504

RECEIVED  
RECORDS MANAGEMENT  
2018 JAN 23 AM 8:25  
STATE OF WASH.  
UTIL. AND TRANSP.  
COMMISSION

RE: *Washington Utilities and Transportation Commission v. SEFNCO Communications, Inc.*

Dear Mr. King:

On Dec. 8, 2017 Washington Utilities and Transportation Commission sent a letter to SEFNCO Communications, Inc., describing a \$10,000 penalty against SEFNCO. This letter included an option to Contest the violation and ask for a hearing to present the evidence to an administrative law judge for a decision. The response date was calendared as 15 business days from the date that the letter was sent and was believed to have been sent and mailed timely. To whatever extent SEFNCO's Jan. 2, 2018 response was untimely, it was due to inadvertence and an excusable mistake in calendaring. The error, if any, should not preclude an on-the-merits resolution of the issues.<sup>1</sup>

With its response, SEFNCO provided what it believes is a sufficient explanation and basis for conducting a hearing where the merits could be examined. Simply put, SEFNCO's position is that it called in a locate ticket and excavated with reasonable care within the scope of that locate ticket after the ticket had matured and after facility owners had been given adequate time to locate their underground facilities. SEFNCO asserts that it complied with Washington law and that a penalty is unwarranted.

SEFNCO purposefully did not argue or present the merits of its position in detail within its response because it understood that was the purpose of the hearing and a hearing is an obviously superior forum for that type of presentation. Nonetheless, SEFNCO did make clear that it sought an on-the-merits hearing and SEFNCO included as grounds for its hearing request

---

<sup>1</sup> SEFNCO notes that in Mr. Mayo's Jan. 10, 2018 letter there is an assertion that Commission staff "attempted to contact the company multiple times . . . to provide fair warning . . ." SEFNCO has conducted a reasonable inquiry and it is not aware of any such attempts. If SEFNCO had been contacted or if it had been aware that the Commission was attempting to reach it, SEFNCO would have responded to any such inquiries and would have explained at that time that its original scope of work had not changed and that its work was within the bounds of the original locate ticket. SEFNCO further would have explained that its direct actions did not damage a water line. SEFNCO would be very interested to learn who at the Commission attempted to reach whom at SEFNCO and all other available details concerning the alleged attempts referenced by Mr. Mayo. Again, SEFNCO conducted a reasonable inquiry and is aware of no efforts made by the Utilities and Transportation Commission to contact SEFNCO regarding this matter – other than the Dec. 8 and Jan. 10 letters.



4610 Tacoma Ave  
Sumner, WA 98390  
Main: 877-385-2903  
Fax: 866-492-9650

the fact that a locate ticket had been called to Washington State 811 service and that Washington State 811 service, in turn, notified McChord Pipeline. More importantly, SEFNCO made clear in its response that the scope of SEFNCO's work did not change throughout the project and the area of damage was described in the original ticket. SEFNCO disputes the Commission's claim that it was required to submit a "new locate ticket for the actual area" because the area in question was part of the original scope of work described in the original ticket. Further, SEFNCO, made clear that no water line was damaged as a result of direct actions of SEFNCO. Accordingly, because SEFNCO regards these issues as material issues of both law and fact, SEFNCO reasserts its request for a hearing so that these issues can be resolved on the merits. As further detail supporting its position, SEFNCO would offer the following:

First, the locate ticket which was called into Washington State 811 service requested locates throughout the entire street of 100<sup>th</sup> St E to the east side of the intersection of A St and 100<sup>th</sup> St to the pole. The intersection of A St and 100<sup>th</sup> St is where the damage is claimed to have occurred and that area is within the scope of the original locate ticket and it is within SEFNCO's originally intended scope of work.

Second, prior to having the utility companies locate their utilities, SEFNCO utilized white paint and described the area of excavation on the polygon map and the locate ticket.

Third, a polygon map with a red boxed polygon covered the area which was the subject of the locate request. The polygon map clearly shows the scope of work from 100<sup>th</sup> St E to the east side of the intersection of A St and 100<sup>th</sup> St to the pole. The polygon clearly shows the area in question was included within the area which had been the subject of an 811 request for locates. The Commission is mistaken in its claim that the scope of work changed from when the original locate ticket was called in to when the alleged damage occurred. The above examples demonstrate that the Commission is incorrect and SEFNCO believes that these three points underscore the importance of an on-the-merits hearing.

Finally, the grounds for the proposed penalty stated in the Dec. 8<sup>th</sup> letter included the sentence: "SEFNCO also hit and caused minor damage to a 10 -inch City of Tacoma water main." SEFNCO denies this and asserts that no water line was damaged as a result of its direct actions. The Commission responds to the denial by asserting that SEFNCO's denial is somehow "not relevant" but then proceeds to dispute the denial by offering the vague, unattributed assertion that "Staff was able to verify with the City of Tacoma that their 10-inch water main was in fact struck and damaged by SEFNCO." SEFNCO hotly disputes this claim and continues to deny that it hit a city water main. SEFNCO would like the opportunity to discover the basis of knowledge and veracity of those who are claimed to have been able to "verify" this assertion. SEFNCO is prepared to present evidence that the claim is inaccurate and not factual.

Nonetheless, SEFNCO recognizes that hearing time is precious and therefore if and to the extent that the Commission is truly limiting the grounds for the proposed penalty to the issue of



4610 Tacoma Ave  
Sumner, WA 98390  
Main: 877-385-2903  
Fax: 866-492-9650

damage to the subject jet fuel line – SEFNCO agrees that the water main issue may well be irrelevant – and it perhaps need not be the subject of evidence presented at the hearing. Obviously, a hearing focused on the scope of permissible excavation under the admittedly valid locate ticket would be much more efficient than one which injects collateral issues concerning a water line (which the Commission seems to concede is not relevant to the proposed penalty). Accordingly, if SEFNCO's request for a hearing is honored, SEFNCO would respectfully suggest that the presentation of evidence be limited to the scope of permissible excavation under the admittedly valid locate ticket and that all matters concerning the water main be excluded because (1) any damage is irrelevant to the proposed penalty; and (2) presentation of evidence about the damaged water line would expand the time required to present evidence and to conduct a hearing. SEFNCO proposes that evidence at the hearing be limited to the core issue of whether the damage to the jet fuel line resulted from SEFNCO performing an excavation outside of the scope excavation permitted under the valid locate ticket.

In closing, SEFNCO respectfully requests that a hearing before an administrative law judge be had so that an on-the-merits determination can be made concerning the penalty warranted under the circumstances. SEFNCO will present photographic and testimonial evidence at the hearing in support of its position and SEFNCO believes that a hearing will not be time consuming and will achieve a just outcome for all concerned.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin Tallon", is written over a light blue horizontal line.

Justin Tallon  
SEFNCO Communications, Inc.  
Operations Coordinator

# Washington One Call

2 FULL BUSINESS DAYS

Ticket No: 17284954  
Original Call Date: 07/26/17 06:45 am  
Work to Begin Date: 07/29/17 12:00 am

### CALLER INFORMATION

Company Name: SEFNCO  
Contact Name: MIKE VIOLETTE  
Alt. Contact: TIM LUNDELL  
Caller Address: 4610 TACOMA AVE SUMNER, WA 98390  
Email Address: MVIOLETTE@SEFNCO.COM

Phone: 253-350-6417  
Phone: 253-375-3278  
Fax Phone: 866-492-9650

### DIG SITE INFORMATION

Type of Work: INSTALL CATV MAINLINE  
Work Being Done For: COMCAST

### DIG SITE LOCATION

State: WA  
Place: TACOMA  
Street: PACIFIC AVE  
Intersecting Street: 100TH ST E  
Location of Work: POLE

County: PIERCE  
Address: 9911

Remarks: AREA MARKED IN WHITE

Map Coord NW Lat: 47.1667525  
SE Lat: 47.1665617

Lon: -122.4335611  
Lon: -122.4313831

### MEMBERS NOTIFIED

District	Company Name	Marking Concerns	Customer Service	Repair
CC7711	COMCAST CABLE	800-762-0592	800-266-2278	855-537-6296
MCCHRD01	MC CHORD PIPELINE COMPANY	253-383-1651	253-383-1651	253-383-1651
PIERCE01	PIERCE COUNTY UTILITIES	253-565-3440	253-565-3440	253-565-3440
PRKLW01	PARKLAND LIGHT & WATER CO	253-531-5666	253-531-5666	253-531-5666
PUGG07	PUGET SOUND ENERGY GAS	888-728-9343	888-225-5773	888-225-5773
QLNWA24	CTLQL-CENTURYLINK	800-778-9140	800-283-4237	800-573-1311
TACDPW01	CITY OF TACOMA PUB WORKS SIG	253-591-5287	253-591-5287	253-591-5287
TACH2001	TACOMA WATER DEPARTMENT	253-502-8398	253-502-8344	253-502-8344
TACPWR01	TACOMA PWR & CLICK NETWORK	253-502-8263	253-502-8600	253-383-0982

Legend:  Locate Polygon

Lat/Lon 47.166972 -122.431952

ific Ave S

Auto Parts

Sound Credit Union

100th St S

100th St S

100th St S

100th St S

99th St Ct E

A St S

A St S

A St S

(7)

Black Star Pub & Grill

Thompson Electrical Constructors, Inc

Access to Money

Canopy World

100th St Ct E

100th St Ct E

99th St Ct E

99th St

99th St