



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
621 Woodland Square Loop SE, P.O. Box 47250 • Lacey, Washington 98503
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December 23, 2021

Service Date: December 23, 2021

Amanda Maxwell, Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

RE: *Washington Utilities and Transportation Commission v. Lumen Technologies Group*
Commission Staff's Response to Application for Mitigation of Penalties
Docket D-210811

Dear Ms. Maxwell:

On November 23, 2021, the Washington Utilities and Transportation Commission (Commission) issued a penalty against Lumen Technologies Group (Lumen or Company) for \$5,000 for a violation of RCW 19.122.030(4)(a) as follows:

- \$5,000 penalty for the violation of RCW 19.122.030(4)(a) that occurred on May 26, 2021.

This violation notice is from an incident that was reviewed by the Washington State Dig Law Safety Committee (Committee) on October 20, 2021. The incident occurred because Lumen failed to provide information to an excavator within two business days after receipt of notice from a One-Call Center. The Committee reviewed the case and determined Lumen violated RCW 19.122.030(4)(a) and recommended a \$5,000 penalty. The Commission reviewed the case, agreed with the recommendation, and issued a \$5,000 Penalty Assessment against Lumen on November 23, 2021.

In its letter to the Commission requesting mitigation, Lumen explained that it recognizes it falls short of expectations at times, but that in this case, the neighborhood was entirely aerial, so its team had no reason to send a locator to the site. Lumen explained once it became aware of the presence of the service drop in question it began the locating process. Lumen stated it believes it was not negligence or lack of care that contributed to this complaint, but rather that the Complainant became frustrated with the locating process.

Staff is not convinced the Company accepts its responsibility to identify the locations of all its facilities. At the time of the Committee's review, Lumen stated it was not possible for them to know where all their facilities were, nor was it reasonable for that to be expected. Lumen's statements and their mitigation request indicate that the Company fails to recognize its responsibilities according to the law. Staff believes that while Lumen is attempting to improve its locating processes, Lumen did not introduce any new information or supporting evidence different from what was presented previously to the Committee.

It is a priority of the Commission to protect the public by increasing knowledge of, and compliance with RCW 19.122. Therefore, Staff recommends that the Commission maintain the penalty amount as issued in the Notice.

If you have any questions, please contact Joice Hagen, Compliance Investigator, Pipeline Safety and Damage Prevention, at (360) 664-1321, or by email at Joice.Hagen@utc.wa.gov.

Sincerely,

Sean C. Mayo, Director
Pipeline Safety