

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

BEACON PLUMBING AND
MECHANICAL, INC.

in the amount of \$1,000

DOCKET DG-250221

ORDER 01

DENYING CONTEST OF VIOLATION;
REQUEST FOR HEARING

BACKGROUND

- 1 On April 3, 2025, the Washington Utilities and Transportation Commission (Commission) issued a Penalty Assessment against Beacon Plumbing and Mechanical, Inc. (Beacon Plumbing or Company) in the amount of \$1,000, alleging one violation of RCW 19.122.055(1)(a) for failing to provide the required notice to facility operators through the one call utility locator service as required before excavating and subsequently causing damage to an underground natural gas facility. The Penalty Assessment offered Beacon Plumbing the opportunity to suspend \$800 of the penalty subject to the conditions that Company management and field crew successfully complete National Utility Contractors Association (NUCA) Dig Safe training within 90 days, the Company submit documentation of training completion to the Commission, and that the Company incur no further violations of chapter 19.122 RCW within 12 months of the date the Penalty Assessment was issued.
- 2 On April 23, 2025, Beacon Plumbing responded to the Penalty Assessment, requesting a hearing to contest the violation. In its response that Company claims that: (1) there was not adequate time for the Company to ascertain the circumstances around the complaint, (2) the allegation made by the investigator regarding the April 1, 2025, phone call was incorrect, and (3) that there is a discrepancy between a comment by the investigator and a statement in the Penalty Assessment regarding whether the Company had a valid locate ticket.
- 3 On May 6, 2025, Commission staff (Staff) filed a response recommending the Commission deny the Company's request for a hearing and contest of the violation. In its response, Staff explains that:

- 1) The Gas First Response report from Puget Sound Energy clearly states that Beacon Plumbing did not have its own locates and was operating off another company's locates;
 - 2) The only ticket in the One Call Center database for the address where the damage occurred was called in as an emergency locate request by Beacon Plumbing on January 4, 2025, at 1:59 p.m., and PSE's Gas First Responder report documents the damage incident occurring at 12:32 p.m. on January 4, 2025;
 - 3) The Company did not provide any information or evidence that it had a valid locate ticket when the damage occurred;
 - 4) The Company did not provide any information that was not considered during the investigation, and
 - 5) The Company did not provide or explain any additional convincing circumstances that the violation did not occur.
- 4 While Staff believes that the Company's contest of the violation should be denied, it recommends the Commission offer the Company the same opportunity to suspend an \$800 portion of the penalty, subject to conditions, that was offered in the Penalty Assessment.

DISCUSSION AND DECISION

- 5 RCW 19.122.030(1)(a) requires excavators to "mark the boundary of the excavation area with white paint 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." Further, an excavator is prohibited from excavating "until all known facility operators have marked or provided information regarding underground facilities."¹ Excavators who violate these provisions are subject to penalties of up to \$10,000 per violation.²
- 6 The Commission denies the Company's contest of the violation. The disputed facts were fully considered in the original investigation, and the Company has provided no new substantive information.

¹ RCW 19.122.030(5).

² RCW 19.122.055(1)(a).

- 7 We will, however, construe the Company's submission as a request for mitigation. The Commission considers several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring the company's compliance.³
- 8 Here, the Company did not introduce any new substantive information that would warrant mitigation of the penalty. 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 Beacon Plumbing for damaging a pipeline and conclude that the Company's request for mitigation should be denied.
- 9 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 \$800 portion of the penalty subject to conditions. Accordingly, Beacon Plumbing must take one of the following actions within 14 days of the effective date of this Order:
- Pay the \$1,000 penalty; or
 - Pay \$200 of the penalty amount and notify the Commission that the Company accepts the Commission's offer to suspend, and ultimately waive, the remaining \$800 portion of the penalty subject to the conditions that (1) Beacon Plumbing supervisors and field crew attend NUCA Dig Safe Training within 90 days of the effective date of this order, (2) Beacon Plumbing submit documentation of training attendance, and (3) Beacon Plumbing incur no additional violations of chapter 19.122 RCW within 12 months of the effective date of this Order.

ORDER

THE COMMISSION ORDERS THAT:

³ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶19 (January 7, 2013).

- 10 (1) Beacon Plumbing and Mechanical, Inc.'s contest of the violation and request for hearing is DENIED.
- 11 (2) Beacon Plumbing and Mechanical, Inc. must either pay the \$1,000 penalty or accept the deferral option described in paragraph 9, above, within 14 days of the effective date of this Order. See form served with this order titled Response to Order 01.

DATED at Lacey, Washington, and effective May 8, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

A handwritten signature in dark ink, appearing to read 'JEFF KILLIP', with a long horizontal flourish extending to the right.

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.