

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

EDGE WEST, LLC,

in the amount of \$6,000

DOCKET DG-200424

ORDER 01

DENYING MITIGATION;
SUSPENDING PENALTY

BACKGROUND

- 1 On August 19, 2020, the Washington Utilities and Transportation Commission (Commission) issued Penalty Assessment DG-200424 (Penalty Assessment) against Edge West, LLC, (Edge West or Company) in the amount of \$6,000, alleging two violations of Revised Code of Washington (RCW) 19.122.055 for failing to provide the required notice to a one-number locator service before excavating and subsequently causing damage to an underground natural gas facility.
- 2 On October 23, 2020, Edge West filed an application for mitigation, admitting the violation and requesting a decision based on the written information provided. In its request, the Company states that it routinely calls in for utility locates and provides quarterly dig safety education for its employees. The Company claims that it obtained a dig ticket for the first violation, but that the damage was caused because the gas line was frozen to the dirt beside it that was being excavated. For the second violation, the Company states that an employee was performing excavation outside of the Company's project at the direction of a "builder," and further that the gas line was too close to the surface.
- 3 On June 16, 2021, Staff filed a response recommending the Commission deny the Company's request for mitigation but suspend the entire penalty for 12 months on the condition that Edge West incurs no additional dig law violations within those 12 months. Staff explains that it believes the Company has shown that it will prioritize dig safety and that a large financial penalty would pose an undue hardship for the Company.

DISCUSSION AND DECISION

- 4 RCW 19.122.055(1)(a) provides, in part, that any excavator who fails to notify a one-number locator service and causes damage to a hazardous liquid or gas facility is subject to a civil penalty of up to \$10,000 for each violation. Here, the Commission has assessed a reduced penalty of \$6,000 for two violations.
- 5 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.¹
- 6 Here, Staff recommends the Commission deny mitigation but suspend the entire \$6,000 penalty, subject to conditions. We agree with Staff's recommendation. The Commission's goal in any enforcement action is to obtain compliance. The Company has provided ample evidence that it continues to prioritize public safety and that it is continuing to make a dedicated effort to train its employees regarding the requirements of RCW 19.122. A suspended penalty will provide additional incentive to comply with those requirements. Accordingly, the Commission assesses a \$6,000 penalty against Edge West, and suspends the penalty for a period of 12 months from the date of this Order, at which point it will be waived, subject to the condition that Edge West must not incur any additional violations of RCW 19.122.

ORDER

THE COMMISSION ORDERS:

- 7 (1) Edge West, LLC's request for mitigation is DENIED.
- 8 (2) The Commission assesses a \$6,000 penalty and suspends it in its entirety for 12 months, subject to the condition that the Company incur no further violations of RCW 19.122 within that year.

¹ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013) at ¶19.

- 9 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Lacey, Washington, and effective July 6, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
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.