

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: D-250330

PENALTY AMOUNT: \$6,000

Investigation # 9103

EMAIL SERVICE

UBI: 602-203-619

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YOU MUST RESPOND WITHIN 15 DAYS OF THIS NOTICE

The Washington Utilities and Transportation Commission (Commission) believes that Proscapes, Inc. (Proscapes or Company) violated Revised Code of Washington (RCW) 19.122.055(1)(a) by failing to notify the one-number locate service and causing damage to an underground gas facility.

RCW 19.122.055(1)(a) states, in part, that excavators who fail to notify a one-number locator service and cause damage to an underground gas facility are subject to a civil penalty of not more than \$10,000 for each violation.

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 Proscapes 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 \$6,000 penalty (Penalty Assessment) against you on the following grounds:

1. **Alleged Violation 1:**
On April 14, 2025, Proscapes was excavating at 4300 Whidbey Court, Anacortes, Washington and did not mark the proposed excavation area in white paint before calling for a locate.
2. **Analysis:**
The alleged violation concerns RCW 19.122.030(1)(a), which states, in part, that an excavator must mark the proposed excavation area in white paint before calling for a locate. The complaint submitted by Cascade Natural Gas (CNG) documented that Proscapes requested a locate ticket on April 11, 2025, for work to begin on April 16, 2025. CNG service mechanic arrived onsite on Monday, April 14, 2025, to locate the facilities

but found the Company had already begun excavation. In addition, Proscapes did not mark the area in white paint. CNG provided a narrative to the Safety Committee documenting that Proscapes started excavation work at 4300 Glasgow Way, Anacortes, WA, before the work to begin date and before it was cleared by CNG. CNG documented that some excavation activities were adjacent to the customer gas meter and directly over the service line. CNG also noted that Proscapes utilized shovels and pick axes while excavating. It should be noted that the narrative provided by CNG identified the incident address as 4300 Glasgow Way, however, the locate ticket and the complaint indicated 4300 Whidbey Court as the incident address, which CNG confirmed in an email dated July 30, 2025. CNG provided the Safety Committee peer review with a copy of the Washington One Call locate ticket #25142991, which confirmed the original call date was April 11, 2025, with a work to begin date as April 16, 2025.

3. Alleged Violation 2:

The Complainant, Cascade Natural Gas, states that on April 14, 2025, Proscapes was excavating at 4300 Whidbey Court, Anacortes, WA and failed to wait until all known facility operators marked their underground facilities.

Analysis:

The alleged violation concerns RCW 19.122.030(5), which states, in part, that an excavator must not excavate until all known facility operators have marked or provided information regarding underground facilities. The complaint submitted by CNG documented that Proscapes called in a locate ticket on April 11, 2025, for work to begin on April 16, 2025. CNG service mechanic arrived onsite on Monday, April 14, 2025, to locate the facilities but found the Company had already begun excavation. In addition, Proscapes did not mark the area in white paint. CNG provided a summary documenting that Proscapes started excavation work at 4300 Glasgow Way, Anacortes, WA, before their work to begin date and before it was cleared by CNG. CNG noted that some excavation activities were adjacent to the customer gas meter and directly over the service line. CNG also documented that Proscapes utilized shovels and pick axes while excavating. CNG provided the Safety Committee peer review with a copy of the Washington One Call locate ticket #25142991, which confirmed the original call date was April 11, 2025, with a work to begin date as April 16, 2025. It should be noted the narrative provided by CNG identified the damage address as 4300 Glasgow Way, however, the locate ticket and the complaint indicated 4300 Whidbey Court as the incident address, which CNG confirmed in an email dated July 30, 2025.

4. Staff conducted a search of the Washington One Call Center database and confirmed that a locate ticket #25142991 was called in by Proscapes on April 11, 2025, for the location at 4300 Whidbey Court and identified a work to begin date of April 16, 2025.

The Safety Committee chose not to recommend a deferral option due to a previously issued penalty assessment to Proscapes on February 24, 2025 (Docket D-250061), in which a deferral had been offered. Proscapes paid the \$1,000 penalty in full on May 1, 2025. Furthermore, in addition to the prior referral from the Safety Committee, the Commission had assessed a penalty of \$1,000 to Proscapes on December 21, 2021 (Docket DG-

210946), for which a deferral was also offered. Proscapes paid this penalty in full on September 28, 2023.

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

1. **How serious or harmful the violations are to the public.**
This incident could have been harmful to Company workers, utility technicians, nearby homeowners, and the public, and could have resulted in serious injury and loss of property.
2. **Whether the violations are intentional.**
This violations appear to be due to negligence by Proscapes rather than a lack of knowledge regarding Washington State's dig law. Over the past 12 months Proscapes has submitted 40 requests to the One Call Center for locates. This demonstrates Proscapes knowledge of the requirements of the Washington State Dig Law.
3. **Whether the company self-reported the violations.**
Proscapes did not self-report the violations. The Commission became aware of the violations when Cascade Natural Gas filed a complaint with the Safety Committee.
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 11, 2020, the Commission mailed an Alleged Violation of Washington Dig Law letter to Proscapes. 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 Proscapes on October 7, 2019, that occurred because the Company failed to submit a request to locate underground utilities before excavating.
 - **Penalty Assessments**
 - On February 24, 2025, the Commission issued Proscapes a Penalty Assessment of \$1,000 for one violation of RCW 19.122.030(2) in Docket D-250061.
 - On December 21, 2021, the Commission issued Proscapes a Penalty Assessment of \$1,000 for one violation of RCW 19.122.055(1)(a) in Docket DG-210946.

The Commission has considered these factors and determined that it should penalize Proscapes, Inc. a total penalty amount of \$6,000 for the two violations. The Commission is not offering a deferral option due to the Company receiving a UTC penalty assessment citing a previous violation of RCW 19.122 within the past 12 months.

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 violations did not occur, you may deny committing the violations and contest the penalty through evidence presented at a hearing or in writing. Or, if there is a reason for the violations 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 violations 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 violations 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 \$6,000 penalty amount due; or
- Request a hearing to contest the occurrence of the violations; or
- Request mitigation to reduce the amount of the penalty.

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 August 25, 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 D-250330 Investigation # 9103

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 violations occurred:
☐ Enclose \$6,000 in payment of the penalty.
OR ☐ Attest that I have paid the penalty in full through the Commission's payment portal.
- ☐ 3. **Contest the violations.** I believe that the alleged violations 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.
- ☐ 4. **Request mitigation.** I admit the violations, 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.