

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: DG-210184

PENALTY AMOUNT: \$10,000

Investigation # 8230

UBI: 601-973-572

SERVICE VIA EMAIL

North Sky Communications, LLC.
16701 SE McGillivray Blvd, Ste 200
Vancouver, WA 98683
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wbrandenburg@northskycomm.com

The Washington Utilities and Transportation Commission (Commission) believes that North Sky Communications (North Sky or Company) has violated Revised Code of Washington (RCW) 19.122.055(1)(a) by failing to notify one-number locator service before beginning excavation. RCW 9.122.055(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.

The Commission reviewed findings and recommendations made by Commission staff (Staff) and hereby notifies you that it is assessing a \$10,000 penalty against you on the following grounds:

On May 12, 2020, North Sky was excavating at 9441 NE 16th St., Clyde Hill, Washington. The Company was hand digging with a shovel for cable and struck a PSE gas line. The Damage Information Reporting Tool report submitted by PSE on June 22, 2020, indicates the Company was digging for cable with an expired locate ticket.

Staff conducted an investigation that included reviewing damage reports, investigation reports, and the One-Call Ticket database. Staff made contact with North Sky employees seeking further information or documentation but, as of the date this Penalty Assessment was issued, have not received any additional information impacting the facts in this case. The documents reviewed identified a natural gas event that involved North Sky damaging a natural gas line while excavating without a valid locate ticket.

Prior to these events, in February 2015, February 2016, and March 2017, the Commission mailed Dig Law violation warning letters to North Sky in response to alleged Dig Law violations. Further, in February 2018 and August 2019, the Commission assessed penalties against North Sky for violations of RCW 19.122.030.

Due to the Company's repeated Dig Law violations, Staff recommends that the Commission assess a \$10,000 penalty against North Sky for one violation of RCW 19.122.055(1)(a) for failing to notify one-number locator service before beginning excavation.

The Commission agrees with Staff's recommendation and assesses a penalty of \$10,000.

These facts, if not contested or if proved 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 violation did not occur, you may deny committing the violation and contest the penalty through evidence presented at a hearing or in writing. Or, if there is a reason for the violation 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 hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request to contest the violation 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 violation 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 notice to do one of the following:

- Pay the \$10,000 penalty amount due; or
- Request a hearing to contest the occurrence of the violation; or
- Request mitigation to reduce the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

If you do not act within 15 days, the Commission may refer this matter to the Office of the Attorney General for collection. The Commission may then sue you to collect the penalty.

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

/s/Rayne Pearson
RAYNE PEARSON
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT DG-200470184, Investigation #8230

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, am 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 violation occurred and enclose \$10,000 in payment of the penalty.

2. **Contest the violation.** I believe that the alleged violation 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.

3. **Request mitigation.** I admit the violation, 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**):

Please review the attached letter describing this particular incident, actions taken post-incident, and additional supporting documentation regarding this matter. Our training curriculum may be made available upon written request if deemed relevant and/or necessary for your review.

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: April 15, 2021 [Month/Day/Year], at Castle Rock, CO [City, State]

North Sky Communications, LLC

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 makes a materially false statement which he 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 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.”