

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment  
Against  
  
Public Utility District No. 1 of Snohomish  
County  
  
in the amount of \$1,000

DOCKET DG-210294  
  
ORDER 01  
  
DENYING MITIGATION;  
IMPOSING AND SUSPENDING  
PENALTY

**BACKGROUND**

- 1 On June 16, 2021, the Washington Utilities and Transportation Commission (Commission) issued a Penalty Assessment (Penalty Assessment) against Public Utility District No. 1 of Snohomish County (Snohomish PUD or Company) in the amount of \$1,000, alleging one violation 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 July 6, 2021, Snohomish PUD filed an application for mitigation, admitting the violation and requesting a decision based on the written information provided. In its request, the Company claims that the Penalty Assessment contains factual errors regarding the depth and size of the damaged facility and the purpose of the excavation. However, the Company also confirms that it submitted a locate request on October 6, 2020, and commenced excavation on October 7, having provided less than the two full business days' notice to facility operators required under RCW 19.122.030(2).
- 3 On July 15, 2021, Staff filed a response recommending the Commission deny the Company's request for mitigation but suggesting that the Commission suspended \$500 of the penalty for 12 months on the conditions that: (a) Snohomish PUD supervisors who are involved in and oversee excavation complete National Utility Contractors Association (NUCA) Dig Safe Training within 90 days of this Order; and (b) Snohomish PUD commits no additional dig law violations within those 12 months. Staff further stated that regardless of the contested factual discrepancies, there was not a valid ticket for the site at the time of the damage incident. The locate request was called in the day before the damage incident.

### 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 \$1,000 for one violation.
- 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.<sup>1</sup>
- 6 Here, Staff recommends the Commission deny mitigation but suspend the half of the \$1,000 penalty, subject to conditions. We agree with Staff's recommendation. Snohomish PUD failed to introduce any new information that would warrant mitigation of the penalty. Companies that dig without first obtaining a timely underground utility locate 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. However, the Commission believes that Company employees' commitment to dig safety would benefit from NUCA Dig Safe Training and a suspended portion of the penalty will provide incentive to attend training as well as additional incentive to comply with the requirements of RCW 19.122. Accordingly, the Commission assesses a \$1,000 penalty against Snohomish PUD and suspends \$500 of the penalty for a period of 12 months from the date of this Order, at which point it will be waived, subject to the conditions that (a) Snohomish PUD supervisors who are involved in and oversee excavation complete NUCA Dig Safe Training within 90 days of this Order; (b) Snohomish PUD provides documentation of attendance to the Commission within five days of completing training; and (c) Snohomish PUD incurs no additional dig law violations within 12 months.

### ORDER

#### THE COMMISSION ORDERS:

- 7 (1) Public Utility District No. 1 of Snohomish County's request for mitigation is DENIED.

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

- 8 (2) The Commission assesses a \$1,000 penalty and suspends \$500 of the penalty for 12 months, subject to the conditions listed in paragraph 6.
- 9 (3) Public Utility District No. 1 of Snohomish County must pay the \$500 portion of the penalty that is not suspended within 10 days of the effective date of this Order.
- 10 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 August 23, 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.**