

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET D-210811
CENTURYLINK COMMUNICATIONS D/B/A LUMEN TECHNOLOGIES GROUP	ORDER 01
in the amount of \$5,000	DENYING MITIGATION

**BACKGROUND**

- 1 On November 23, 2021, the Washington Utilities and Transportation Commission (Commission) issued a Penalty Assessment against CenturyLink Communications d/b/a Lumen Technologies Group (Lumen or Company) in the amount of \$5,000 for one violation of RCW 19.122.030(4)(a). The Penalty Assessment alleges that the Company failed to provide information to an excavator no later than two business days after receiving a request to locate underground facilities.
- 2 On December 7, 2021, Lumen filed an application for mitigation, requesting a decision based on the information provided. In its application, the Company admitted it failed to send locators to the site and stated: “I think we can all agree that we will never achieve 100% accuracy on these types of things, but the spirit of the Dig Law is that we all do our best and work together for everyone to be safe.”
- 3 On December 23, 2021, Commission staff (Staff) filed a response recommending the Commission deny the Company’s request for mitigation. Staff states that it is not convinced that the Company accepts its responsibility to identify the locations of all its facilities. In its letter, Staff states that Lumen previously asserted that it was “not possible” for the Company to know where all its facilities are and that the Company believes it is not reasonable for that to be expected.

**DISCUSSION AND DECISION**

- 4 RCW 19.122.030(4)(a) requires facility operators to “provide information to an excavator . . . no later than two business days after the receipt of the notice.” In order to provide such information to excavators, companies must know the locations of their facilities or be able to locate them effectively. Facility operators who violate these provisions are

subject to penalties of up to \$10,000 per violation.<sup>1</sup> Here, the Commission assessed a reduced penalty of \$5,000 for the violation, which is the Company's second violation in two years.

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>2</sup>

6 We find that Lumen failed to introduce any new information that would warrant further mitigation of the penalty. Facility operators that fail to provide excavators with accurate underground utility locates create a serious risk of damage to equipment and infrastructure and create a safety hazard. Under Washington law, facility operators are responsible for locating and identifying their facilities, without exception, regardless of how difficult that task may seem. Accordingly, we agree with Staff's recommendation and conclude that the Company's request for mitigation should be denied.

### **ORDER**

#### **THE COMMISSION ORDERS THAT:**

- 7 (1) CenturyLink Communications LLC d/b/a Lumen Technologies Group's request for mitigation is DENIED.
- 8 (2) CenturyLink Communications LLC d/b/a Lumen Technologies Group is assessed a penalty of \$5,000.

DATED at Lacey, Washington, and effective December 30, 2021.

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**AMANDA MAXWELL**  
Executive Director and Secretary

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<sup>1</sup> RCW 19.122.055(1)(a).

<sup>2</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013) at ¶19.

**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.**