

Service Date: August 25, 2025

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

PENALTY ASSESSMENT: D-250373

PENALTY AMOUNT: \$1,000

Investigation # 9106

**SERVICE VIA EMAIL**

George Baker Thomson, Jr.  
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Ziply Fiber Northwest, LLC  
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**YOU MUST RESPOND WITHIN 15 DAYS OF THIS NOTICE**

The Washington Utilities and Transportation Commission (Commission) believes that Ziply Fiber Northwest, LLC (Ziply Fiber or Company) violated Revised Code of Washington (RCW) 19.122.030(3)(a) for failing to provide the excavator with reasonably accurate information by marking the location of its facilities.

RCW 19.122.070(1) states, in part, that violations of any provision of the chapter are subject to a civil penalty of not more than \$1,000 for an initial violation and not more than \$5,000 for each subsequent violation within a three-year period.

On May 21, 2025, the Safety Committee heard case 25-025 filed by Dig Law Advocates (DLA) on behalf of Shoreline Construction (Complainant) against Ziply Fiber and determined Ziply Fiber violated RCW 19.122.030(3)(a) for failing to provide the excavator with reasonably accurate information by marking the location of its facilities. The Safety Committee recommended that the Commission impose a \$1,000 penalty.

Commission staff (Staff) reviewed the documents, reports, and communications with the Safety Committee and agreed with the Safety Committee's findings and recommendations.

The Commission has reviewed the recommendation by the Safety Committee and Staff, and hereby notifies you that it is assessing a \$1,000 penalty (Penalty Assessment) against you on the following grounds:

**1. Alleged Violation(s):**

The Complainant states that on April 14, 2025, Ziply Fiber failed to provide the excavator with reasonably accurate information by marking the location of its facilities at 23002 2<sup>nd</sup> Ave Southeast, Bothell, WA.

2. **Analysis:**

The alleged violation concerns RCW 19.122.030(3)(a), which states, in part, that upon receipt of notice through a one-number locator service, the facility officer must provide the excavator with reasonably accurate information by marking the location of its facilities. The complaint submitted to the Safety Committee alleged that Ziply Fiber was not a responding member on any of the locate tickets requested by Shoreline Construction, that Ziply Fiber did not locate their facilities, and Ziply denied paying Shoreline Construction's downtime claim. DLA submitted documents, photographs, locate tickets, and communication between Shoreline Construction and Ziply Fiber to the Safety Committee for consideration. In the summary submitted by DLA, it noted that because Ziply Fiber was not a responding member in the 811 system as required by RCW 19.122.027, the contract locator did not receive notification to locate the line. Shoreline Construction was working with a plan that indicated the underground lines in the area. The Ziply Fiber line that was damaged was not on the plan. The locate tickets provided by Ziply Fiber (#24461107, #24489631, and #24525033) do not show that Ziply Fiber was notified of the locate request.

George Baker Thomson, Associate General Counsel, appeared on behalf of Ziply Fiber. Thomson provided a summary of the allegations to the Safety Committee. Ziply Fiber noted that it subscribes to the one-number locator service in all counties in Washington in which it operates. Ziply Fiber maps the polygons for the Utility Notification Center via shape files and the IMAP application. The summary went on to document that in this case, Shoreline Construction hit a single fiber service drop while serving a user residence. Ziply documented that the fiber drop had been unintentionally left marked as an aerial drop in Ziply Fiber records after an older, obsolete copper drop had been replaced during Ziply Fiber's overbuild of that neighborhood. Ziply Fiber repaired the service drop to the customer and made no claim against Shoreline Construction for the damage to the drop or for the cost of repair. Ziply Fiber claimed that the fiber service drop would not have been locatable, even if notice had been received. Ziply Fiber believes that the Safety Committee is not the appropriate forum for resolution of the delay claim.

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

1. **How serious or harmful the violation is to the public.**

This incident could have been significantly more harmful to Shoreline Construction workers, utility technicians, nearby homeowners, and the public, and it could have resulted in severe injury and/or loss of property.

2. **Whether the violation is intentional.**

The violations do not appear to be intentional, but rather due to negligence by Ziply Fiber. Over the past 36 months (May 28, 2022 – May 28, 2025), Ziply Fiber has not been penalized by the Commission for violations of RCW 19.122.030. Ziply Fiber is aware of the requirements to comply with the dig law.

3. **The likelihood of recurrence.**

The likelihood of recurrence depends on Ziply Fiber's actions going forward, and its ability to ensure that its contract locator and its contract locator's processes are sufficient to comply with the requirements of the dig law.

4. **The Company's previous violations and penalties-NONE.**

The Commission has considered these factors and agrees with the Safety Committee's findings of probable violation and penalty recommendation, as follows:

- \$1,000 penalty for one violation of RCW 19.122.30(3)(a) with an offer to suspend an \$800 portion of the penalty for one year, and then waive it, subject to the conditions that:
  - 1) The Company must not commit any further violations of RCW 19.122 within 12 months of the date of this Penalty Assessment.

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 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 a 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 Penalty Assessment** to do one of the following:

- Pay the \$1,000 penalty amount due; or
- Pay \$200 and notify the Commission that you accept the offer to suspend an \$800 portion of the penalty amount subject to the following conditions:
  - not incur any additional violations of RCW 19.122 within 12 months of the date of this Penalty Assessment; 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 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](mailto: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, P.O. Box 47250, Olympia, Washington 98504-7250.

If you wish to make your payment online, please use this link: [Make a Payment Now \(wa.gov\)](#).<sup>1</sup>

**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

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<sup>1</sup> <https://www.utc.wa.gov/documents-and-proceedings/online-payments/make-payment-now>.

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**  
PENALTY ASSESSMENT D-250373 Investigation # 9106

**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 violation occurred and:
- ☐ Enclose \$1,000 in payment of the penalty.
- OR ☐ Attest that I have paid the penalty in full through the Commission's payment portal.
- ☐ 2. **Accept conditions.** I admit that the violation occurred and enclose \$200 toward the payment of the penalty. I also accept the Commission's offer to suspend, and ultimately waive, the remaining \$800 penalty amount subject to the following conditions:
- ☐ The Company must not commit any further violations of RCW 19.122 within twelve (12) months of the date of this Notice.
- ☐ 3. **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.
- ☐ 4. **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**):
- ☐ 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.