



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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September 23, 2019

Sally Brown
Senior Assistant Attorney General
Attorney General's Office
PO Box 40128
Olympia, WA 98504-0128

RE: **Letter Requesting Enforcement Action** (Docket D-190758)

Dear Ms. Brown:

The Washington Utilities and Transportation Commission (Commission) formally request that the Attorney General's Office (AGO) institute enforcement action against Snohomish County PUD (SnoPUD) for violations of Revised Code of Washington (RCW) 19.122.030(3)(a) that occurred when SnoPUD failed to provide reasonably accurate information as to the location of its underground utilities within two business days of receipt of an excavator's utility locate request.

On September 3, 2019, the Washington State Dig Law Safety Committee (Safety Committee) heard complaints for cases 19-049, 19-050, and 19-060 against SnoPUD regarding alleged violations of RCW 19.122 that occurred on August 24, 2018, December 27, 2018, and June 13, 2019, respectively. The Safety Committee determined that SnoPUD committed three violations of RCW 19.122.030(3)(a) as follows:

First Violation

On August 20, 2018, Austin's Lend-A-Hand submitted utility locate request #18362799 for 472 Lehman Dr., Camano Island, Washington. On August 24, 2018, Austin's Lend-A-Hand arrived at the jobsite and discovered an absence of SnoPUD underground utility markings on the ground within the identified excavation area. Austin's Lend-A-Hand contacted SnoPUD's contracted locator, who was dispatched to the site and subsequently located and marked additional underground utilities within the excavation area. Photographs and documentation submitted to the Safety Committee by both parties support the allegation.

Second Violation

On December 20, 2018, Austin's Lend-A-Hand submitted utility locate request #18536674 for 832 New Morning Rd., Camano Island, Washington. On December 27, 2018, Austin's Lend-A-Hand arrived at the jobsite and discovered an absence of SnoPUD underground utility markings on the ground within the identified excavation area. Austin's Lend-A-Hand contacted SnoPUD's contracted locator, who was dispatched to the site and subsequently located and marked underground utilities within the excavation area. Photographs and documentation submitted to the Safety Committee by both parties support the allegation.

Third Violation

On June 5, 2019, Austin's Lend-A-Hand submitted utility locate request #19235521 for 495 Tillicum Way, Camano Island, Washington. On June 13, 2019, Austin's Lend-A-Hand arrived at the jobsite and discovered an absence of SnoPUD underground utility markings on the ground within the identified excavation area. Austin's Lend-A-Hand contacted SnoPUD's contracted locator, who was dispatched to the site and subsequently located and marked additional underground utilities within the excavation area. Photographs and documentation submitted to the Safety Committee by both parties support the allegation.

Commission staff (Staff) investigated these incidents and agrees with the Safety Committee's determination, concluding that in each instance SnoPUD failed to mark all of its underground locatable facilities within two business days of the excavator's request, and therefore did not provide reasonably accurate information to the excavator in regards to the location of its underground utilities.

According to RCW 19.122.140(2), the Commission lacks jurisdiction to issue a penalty in this matter. RCW 19.122.140(2) states that:

If . . . a violation has likely been committed by a person who is not subject to regulation by the commission, and in which the underground facility involved is also not subject to regulation by the commission, the commission may refer the matter to the attorney general for enforcement of a civil penalty . . .

SnoPUD is not subject to regulation by the Commission. The underground facilities in question belong to SnoPUD, and SnoPUD committed the violation for which the penalty was issued. Therefore, the Commission officially requests that the AGO pursue enforcement action against SnoPUD for the violations listed above. Staff is available to assist as required in this matter.

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Please contact Sean Mayo, Pipeline Safety Director, at (360) 664-1219 if you have any questions.

Sincerely,

MARK L. JOHNSON
Executive Director and Secretary