

[Service Date April 14, 2014]



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
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April 14, 2014

NOTICE OF NEW OPPORTUNITY TO REQUEST HEARING
(Request due by Friday, April 25, 2014
Response due by Friday, May 2, 2014)

RE: Penalty Assessment against Mr. Randy Buchanan for \$5,000
Docket PL-140180

TO ALL PARTIES:

On March 4, 2014, the Washington Utilities and Transportation Commission (Commission) issued and served a penalty assessment against Mr. Randy Buchanan in the amount of \$5,000 for violations of RCW 19.122.030, failure to call for a dig ticket prior to excavation, based on the findings and recommendations of the Review Committee of the Washington Dig Law Safety Committee (Review Committee).

On March 21, 2014, Mr. Buchanan filed with the Commission a request for hearing on the form provided by the Commission. Mr. Buchanan checked the box on that form indicating that he believes that the alleged violations did not occur for which penalties were assessed. The form, however, conditions the opportunity for hearing on Mr. Buchanan providing a written statement of the reasons he believes the alleged violations did not occur. Mr. Buchanan failed to provide any such reasons.

On April 2, 2014, the Commission issued a Notice denying Mr. Buchanan's request for a hearing on the grounds that he failed to offer any basis for that request but provided Mr. Buchanan an opportunity to request mitigation of the assessed penalty on the basis of a written submission of the reasons supporting such mitigation if the Commission received that submission no later than April 9, 2014.

On April 9, 2014, the Commission received a letter from William D. McCool, an attorney representing Mr. Buchanan, requesting that the Commission reconsider its decision and grant Mr. Buchanan's request for a hearing.

While the Commission believes Mr. Buchanan has had ample opportunity to state the basis for a hearing, it also endeavors to be fair.¹ Neither Mr. Buchanan nor Mr. McCool are familiar with Commission processes, and we are willing to give them the benefit of the doubt that they were confused about the requirements for requesting a hearing and the consequences of failing to satisfy those requirements.

Accordingly, the Commission will provide Mr. Buchanan with another opportunity to request a hearing on the penalty assessment. That request must include a written statement of the reasons for the request, which must identify the factual and legal issues Mr. Buchanan seeks to have the Commission resolve. Commission Staff will then have an opportunity to respond to the request, and the Commission will decide whether a hearing is warranted. Further failure by Mr. Buchanan to comply with these requirements will result in denial of his request.

THE COMMISSION GIVES NOTICE That the Commission provides Randy Buchanan with a new opportunity to request a hearing that must include a written statement of the reason(s) in support of the request and must be filed by 5:00 p.m., Friday, April 25, 2014. Commission Staff may file a response to a request by 5:00 p.m., Friday, May 2, 2014. Failure to file a timely statement of the factual and legal issues supporting a hearing will result in denial of the request.

GREGORY J. KOPTA
Director, Administrative Law Division

¹ It is useful to note that a respondent, such as Mr. Buchanan, has no legal *right* to a hearing before the Commission on a penalty assessment. The statute requires only that the Commission provide an opportunity to *request* a hearing. The Commission retains discretion to determine whether to grant such a request and will do so only if the requester identifies material issues of fact or law for Commission determination.