



Puget Sound Energy  
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December 8, 2016

Washington State Dig Law Safety Committee  
P.O. Box 734  
Poulsbo, WA 98370

Re: Review Committee Decision – Case Number 16-014 and 16-015

To whom it may concern:

Puget Sound Energy (PSE) respectfully requests clarification of the Washington State Dig Law Safety Committee's November 16, 2016 determination that PSE violated RCW 19.122.030(3)(a) with regards to Case Number 16-014 and 16-015.

Specifically, PSE requests an explanation as to why RCW 19.122.030(3)(a) was determined to be violated but RCW 19.122.030(4)(c) and RCW 19.122.030(4)(c)(i) were not taken into account, which state:

“A facility operator’s good faith attempt to comply with subsection 3(b) and (c) of this section: (i) Constitutes full compliance with the requirements of this section, and no person may be found liable for damages or injuries that may result from such compliance, apart from liability for arranging for repairs or relocation as provided in RCW 19.122.050(2); and...”

In regards to Case Number 16-014, PSE provided evidence showing that both USIC (PSE's locating contractor) and PSE's Public Improvement Inspector attempted to locate the damaged gas service. PSE believes that these attempts to locate said gas service constitute a good faith effort and so PSE should not be held in violation of RCW 19.122.030(3)(a).

For Case Number 16-015, PSE provided evidence showing that USIC responded to the locate ticket in a timely manner. Although there was not photographic evidence of the gas service that is alleged to have not been located, PSE believes that the evidence provided shows that USIC made a good faith effort to mark the entirety of this large project ticket (800+ feet) and so PSE should not be held in violation of RCW 19.122.030(3)(a).

In both of these instances, PSE and/or its contractor arrived on site in a timely manner and performed locating services. Unfortunately in both instances the locate was off. Of course RCW 19.122.030 does not require perfect location performance, and no evidence at the hearing suggested that PSE fell short of its duty of good faith. As such, the only remedy appropriate under the statute is not a violation or a fine. Rather, the remedy in RCW 19.122.050(2) is for PSE to perform or pay for the cost of repair or relocation of the facilities.

It is very important to PSE to remain in compliance with RCW 19.122. PSE is constantly working to ensure that accurate, on-time locates are provided in response to 811 calls. PSE appreciates that Frank Coluccio Construction did its part under the Dig Law by calling for locates. But to ensure that all of us in the industry are on the same page as to these efforts, PSE requests clarification of these recommendations by the Dig Law Safety Committee and/or the UTC, so that the expectations and roles are clear going forward. Thank you for your time.

Sincerely,



Wayne R. Gould  
Director, Contracts and Supply Chain  
Puget Sound Energy