

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

**PENALTY ASSESSMENT: DG-180248  
PENALTY AMOUNT: \$1,000**

Mike Waldner  
Kar Vel Construction, Inc.  
P.O. Box 58275  
Renton, WA 98058

The Washington Utilities and Transportation Commission (Commission) believes you have violated Revised Code of Washington (RCW) 19.122.030(2) by failing to provide the required notice to a one-number locator service not less than two business days before excavating. RCW 19.122.055(1)(a) states, in part, that any excavator who fails to notify a one-number locator service and causes damage to a underground gas utility is subject to a civil penalty of not more than ten thousand dollars for each violation.

Commission pipeline safety staff (Staff) reviewed damage reports submitted by Puget Sound Energy (PSE) and information obtained from the One Call 811 database, and hereby notifies you that it is assessing a penalty against you in the amount of \$1,000 on the following grounds:

On July 14, 2016, Kar Vel Construction, Inc. (Kar Vel Construction or Company) was installing a water service at 14223 SE Allen Rd. in Bellevue, Washington. While excavating, Kar Vel Construction damaged a PSE 5/8" gas service line. PSE reported that Kar Vel Construction did not have a valid locate ticket prior to beginning work. Staff found that a utility locate request was submitted for this location on April 13, 2016. This locate ticket expired 45 days from the date it was requested, on May 28, 2016. Kar Vel Construction failed to request new locates prior to performing an excavation, which resulted in damage to an underground gas utility.

Staff sent a technical assistance warning letter to Kar Vel Construction on September 22, 2016, which included detailed information about the requirements of Washington state's dig law.

On November 13, 2017, Kar Vel Construction was installing a new water main at 11643 Des Moines Memorial Dr. in Burien, Washington. While excavating, Kar Vel Construction damaged a PSE 5/8" gas service line. PSE reported that Kar Vel Construction did not have a valid locate ticket prior to beginning work. Staff found that a utility locate request was submitted for this location on Sept. 12, 2017. This locate ticket expired 45 days from the date it was requested, on October 27, 2017. Kar Vel Construction also submitted an emergency utility locate request on November 13, 2017, which was the same day the damage incident occurred. At the time of the damage incident, Kar Vel Construction did not have a valid locate ticket.

Staff found that Kar Vel Construction committed two violations of RCW 19.122.030(2) by failing to request utility locates on two occasions. Staff recommends the Commission assess a \$1,000 penalty for these two violations as follows:

- No Penalty for the first violation of RCW 19.122.030(2), which occurred on July 14, 2016; and
- \$1,000 penalty for the second violation of RCW 19.122.030(2), which occurred on November 13, 2017.

Staff also recommends that Kar Vel Construction field crews involved in excavation, including company management, attend Dig Safe training provided through the National Utility Contractors Association (NUCA) within 12 months of the date of the Penalty Assessment.

Staff's research indicates that Kar Vel Construction has a significant history of requesting utility locates and that the violations were the result of Company negligence, not a lack of knowledge of the requirements of Washington state's Dig Law.

The Commission agrees with Staff's recommendation and assesses a penalty of \$1,000.

These facts, if not contested or if proved 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 either or both of the violations did not occur, you may deny committing the violation(s) and contest the penalty assessment through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact concerning the violation(s) require consideration of evidence and resolution in a hearing. Any contest of the penalty assessment must include a written statement of the reasons supporting that contest. Failure to provide such a statement will result in denial of the contest.

If you admit the violations but believe there is a reason for either or both of the violations that should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request for mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request.

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(s) 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 his or her decision.

**You must act within 15 days after receiving this notice** to do one of the following:

- Pay the \$1,000 amount due; or
- Request a hearing to contest the occurrence of any or all of the violation(s); 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 **within FIFTEEN (15) days** after you receive this notice. 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, Post Office Box 47250, Olympia, Washington 98504-7250.

**If you do not act within 15 days**, the Commission may refer this matter to the Office of the Attorney General for collection. The Commission may then sue you to collect the penalty.

DATED at Olympia, Washington, and effective April 5, 2018.

*/s/ Rayne Pearson*

RAYNE PEARSON

Director, Administrative Law Division

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**  
**PENALTY ASSESSMENT DG-180248**

**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, am 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 violations occurred and enclose \$1,000 in payment of the penalty
2. **Contest the violations.** I believe that the alleged violations 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.
3. **Request mitigation.** I admit the violations, 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 makes a materially false statement which he 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 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.”