

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

**PENALTY ASSESSMENT: DG-180300
PENALTY AMOUNT: \$1,000**

Steve Lindberg
Cascade Electrical, LLC
P.O. Box 160
Brush Prairie, WA 98606

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 Northwest Natural Gas (NWN) 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 Oct. 14, 2015, Cascade Electrical, LLC (Cascade Electrical or Company) was excavating at the intersection of NE 59th and NE 137th Ave. in Vancouver, Washington. While digging, Cascade Electrical damaged an NWN gas service line. NWN reported that Cascade Electrical did not have a valid locate ticket prior to beginning work. Staff did not initially investigate this incident because it was Cascade Electrical's first alleged incident of damaging a natural gas line without locates. Staff sent a technical assistance warning letter to Cascade Electrical on Dec. 29, 2015, which included detailed information about the requirements of Washington state's dig law.

On June 23, 2017, Cascade Electrical was installing an underground power line at 1805 SE 9th Ave. in Battle Ground, Washington. While excavating, Cascade Electrical damaged an NWN 2" gas service main with a track hoe. Cascade Electrical operator Tanner Linge stated to NWN responders that he knew there was no locate ticket. Staff investigated and found that the only utility locate request submitted by Cascade Electrical was on June 23, 2017, which is the same day the damage incident occurred. At the time of the damage incident, Cascade Electrical did not have a valid locate ticket.

Staff found that Cascade Electrical 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 Oct. 14, 2015; and

- \$1,000 penalty for the second violation of RCW 19.122.030(2), which occurred on June 23, 2017.

Staff also recommends that Cascade Electrical 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 Cascade Electrical has a significant history of requesting utility locates and that the violations were the result of Company negligence, not 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. 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 12, 2018.

/s/ Rayne Pearson

RAYNE PEARSON

Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT DG-180300

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.”