

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: DG-180737

PENALTY AMOUNT: \$1,000

Investigation #7768

UBI: 602 841 940

Phone: (206) 459-3700

Davidsen Excavating, Inc.
8827 160th St SE
Snohomish, WA 98296

The Washington Utilities and Transportation Commission (commission) believes that you have violated Revised Code of Washington (RCW) 19.122.030(2) by failing to notify a one-number locator service prior to performing an excavation. RCW 19.122.055(1)(a) states that any excavator who fails to notify a one-number locator service and causes damage to a hazardous liquid or gas facility is subject to a civil penalty of not more than ten thousand dollars for each violation.

Commission staff (Staff) conducted an investigation that included reviewing damage reports submitted by Puget Sound Energy (PSE), which identified a natural gas damage event involving Davidsen Excavating, Inc. (Davidsen Excavating or Company). Accordingly, the commission hereby notifies you that it is assessing a penalty against you in the amount of \$1,000 on the following grounds:

On July 27, 2016, Davidsen Excavating struck and damaged a 5/8" natural gas stub while digging to install conduit for gas service in Bellevue, Washington. Davidsen Excavating did not submit a request with a one-number locator service to locate underground utilities prior to excavating. Staff sent a technical assistance warning letter to the Company on May 4, 2016, which included detailed information about the requirements of Washington State's underground utility damage prevention act.

On May 23, 2018, Davidsen Excavating performed an excavation while installing utilities at 104 130th Ave. SE, Bellevue, Washington. Prior to beginning excavation, Davidsen Excavating failed to request a dig ticket from a one-number locator service to locate underground utilities. A 1-1/8" underground PSE gas line was struck and damaged by equipment used by Davidsen Excavating's employees.

On June 27, 2018, PSE submitted a Damage Incident Reporting Tool report identifying Davidsen Excavating as the party responsible for damaging the natural gas service line on May 23, 2018. Staff was unable to locate a valid dig ticket for Davidsen Excavating at this location on this date.

Staff recommends the commission assess a \$1,000 penalty against Davidsen Excavating for one violation of RCW 19.122.030(2) for failing to provide the

required notice to a one-number locator service not less than two business days before excavating, as follows:

- No penalty for the violation of RCW 19.122.030(2), which occurred on July 27, 2016; and
- \$1,000 penalty for the violation of RCW 19.122.030(2), which occurred on May 23, 2018.

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 through evidence presented at a hearing or in writing. Or, if there is a reason for the violation that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of the 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 to contest the violations or for mitigation of the penalty must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. *See* RCW 81.04.405.

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 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;
- Request a hearing to contest the occurrence of either or both of the violation(s); or
- Request mitigation to reduce the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

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 October 9, 2018.

/s/ Rayne Pearson
RAYNE PEARSON
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT DG-180737, Investigation # 7768

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 violation occurred and enclose \$1,000 in payment of the penalty.

2. **Contest the violation.** I believe that the alleged violation did not occur for the reasons I describe below:

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 violation, but I believe that the penalty should be reduced for the reasons set out below:

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.”