

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

**PENALTY ASSESSMENT: DG-180829
PENALTY AMOUNT: \$5,000
Investigation #7777**

Ryatt Construction, LLC
9414 Stone Ave N
Seattle, WA 98103

UBI: 603-359-332
Phone: (206) 525-0075

The Washington Utilities and Transportation Commission (Commission) believes that you have violated Revised Code of Washington (RCW) 19.122.030(2) by failing to request a dig ticket prior to performing an excavation. RCW 19.122.055 states, in part, 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 \$10,000 for each violation.

Commission staff (Staff) conducted an investigation that included reviewing Damage Incident Reporting Tool (DIRT) reports submitted by Puget Sound Energy (PSE) that identified a natural gas damage event involving Ryatt Construction, LLC (Ryatt or Company). Accordingly, the Commission hereby notifies you that it is assessing a penalty against you in the amount of \$5,000 on the following grounds:

On October 17, 2017, Ryatt was mailed an Alleged Violation of Washington Dig Law letter, informing the Company of its obligation to have underground utilities located prior to excavation, as outlined in RCW 19.122.030. This letter was sent following a damage incident that occurred on August 18, 2017, while Ryatt was excavating without a valid dig ticket. The letter emphasized the importance of becoming familiar with the law and the possibility of penalties for each violation.

On January 24, 2018, Ryatt hit and damaged a recently installed PSE gas main while excavating. Staff conducted an investigation and determined that Ryatt was excavating on an expired locate ticket. On May 11, 2018, the Commission issued a \$3,500 penalty assessment in Docket DG-180386 against Ryatt for two violations of RCW 19.122, for failing to notify a one-number locator service prior to excavating and causing the damages on August 18, 2017, and January 24, 2018.

On June 4, 2018, Ryatt was grading at 2636 1st Ave N, Seattle, Washington. Prior to beginning excavation, Ryatt failed to request a dig ticket from a one-number locator service to have underground utilities located. An underground PSE gas line was struck and damaged by equipment used by Ryatt employees.

On July 12, 2018, PSE submitted a DIRT report identifying Ryatt as the party responsible for damaging the natural gas service line on June 4, 2018. Staff was unable to find a valid dig ticket for Ryatt at this site on this date. Staff found dig ticket #17354330, a request from Ryatt to have underground utilities located for the site, that expired October 22, 2017, and dig ticket #18232609, which was requested the same day the damage occurred.

Staff recommends the Commission assess a \$5,000 penalty against Ryatt for one violation of RCW 19.122.030(2) for failing to provide the required notice to a one-number locator service to have underground utilities located not less than two business days before excavating, as follows:

- \$5,000 penalty for a repeat violation of RCW 19.122.030(2), which occurred on June 4, 2018.

Staff's research indicates that Ryatt has a significant history of requesting a dig ticket from a one-number locator service to have underground utilities located, and the violation appears to be the result of the Company's negligence rather than a lack of knowledge of the requirements of Washington's dig law. The one-number locator service ticket database indicates that Ryatt has submitted 183 utility locate requests since the Commission assessed a \$3,500 penalty against Ryatt on May 11, 2018.

The Commission agrees with Staff's recommendation and assesses a penalty of \$5,000.

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 the violation did not occur, you may deny committing the violation 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 violation 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 \$5,000 penalty amount due; or
- Request a hearing to contest the occurrence of the violations; 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 November 9, 2018.

RAYNE PEARSON
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT DG-180829, Investigation # 7777

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 \$5,000 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.”