

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

PENALTY ASSESSMENT: DG-180902  
PENALTY AMOUNT: \$2,000  
Investigation # 7869

Paul Kemp  
Rivers Edge Environmental Services, Inc.  
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The Washington Utilities and Transportation Commission (Commission) believes that you have violated Revised Code of Washington (RCW) 19.122.030(2) by failing to obtain a valid 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 Information Reporting Tool (DIRT) reports submitted by Puget Sound Energy (PSE), which identified a natural gas damage event involving Rivers Edge Environmental Services, Inc. (Rivers Edge or Company). Accordingly, the Commission hereby notifies you that it is assessing a \$2,000 penalty against you on the following grounds:

On September 5, 2018, the Commission mailed an Alleged Violation of Washington Dig Law letter to Rivers Edge, 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 on April 4, 2018, at 36526 2<sup>nd</sup> Ave SW, Federal Way, Washington, that occurred because Rivers Edge failed to wait the required two days after submitting a request to have underground utilities located before beginning excavation. The letter emphasized the importance of becoming familiar with the law, and the possibility of penalties for each violation.

On July 25, 2018, Rivers Edge was potholing and damaged an underground natural gas line at 2925 57<sup>th</sup> St SE, Auburn, Washington. On August 31, 2018, PSE submitted a DIRT report identifying Rivers Edge as the party responsible for damaging the natural gas service line without providing notice to a one-number locator service at least two days before commencing excavation.

Staff found that a request to have underground utilities located for this site was made on July 19, 2018, but was submitted by the company for whom Rivers Edge was doing the work, and identified that company as the excavator. Rivers Edge did not have a valid dig ticket identifying it as the excavator at the time and for the location where Rivers Edge caused the damage at issue.

Staff recommends the Commission assess a \$2,000 penalty against Rivers Edge for two violations 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:

- \$1,000 penalty for the first violation of RCW 19.122.030(2), which occurred on April 4, 2018.
- \$1,000 penalty for the second violation of RCW 19.122.030(2), which occurred on July 25, 2018.

The Commission agrees with Staff's recommendation and assesses a penalty of \$2,000 for two violations of RCW 19.122.030(2) for failing to request a dig ticket prior to performing an excavation. 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(s) 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(s) 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(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 \$2,000 penalty amount due;
- Request a hearing to contest the occurrence of either or both 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 29, 2018

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

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**  
PENALTY ASSESSMENT DG-180902, Investigation # 7869

**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 \$2,000 in payment of the penalty.

2. **Contest the violation.** I believe that the alleged violations 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 violations, 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.”