

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

**PENALTY ASSESSMENT: DG-180998  
PENALTY AMOUNT: \$1,000  
Investigation #7883**

Brent Martell  
Premier Landscaping & Design, Inc.  
2004 Saint St.  
Richland, WA 99354

UBI: 601-989-812  
Phone: (509) 727-0590

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 reports submitted by Cascade Natural Gas Corporation (CNGC) that identified a natural gas damage event involving Premier Landscaping & Design, Inc. (Premier Landscaping or Company). Accordingly, the Commission hereby notifies you that it is assessing a penalty against you for \$1,000 on the following grounds:

On May 11, 2015, Premier Landscaping allegedly struck and damaged a natural gas line belonging to CNGC while excavating. Premier Landscaping did not request a dig ticket from a one-number locator service to locate underground utilities before excavating. The Commission mailed an Alleged Violation of Washington Dig Law letter to the Company on July 29, 2015, which included detailed information about the requirements of Washington State's underground utility damage prevention act and the possibility of penalties for each violation.

On August 18, 2018, Premier Landscaping damaged an underground CNGC natural gas distribution line at 1412 Meadow Hills Dr., Richland, Washington. The Company failed to request a dig ticket from a one-number locator service to locate underground utilities prior to excavating.

On September 18, 2018, CNGC submitted a Damage Incident Reporting Tool report identifying Premier Landscaping as the party responsible for damaging the natural gas line on August 18. Staff was unable to find a valid dig ticket for the Company at this location on this date, and a representative from the Company stated Premier Landscaping did not have a valid ticket for the jobsite at the time of the damage.

Staff recommends the Commission assess a \$1,000 penalty against Premier Landscaping 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 May 11, 2015; and
- \$1,000 penalty for the violation of RCW 19.122.030(2), which occurred on August 18, 2018.
- The opportunity to suspend \$500 of the \$1,000 penalty if Company management and field crew involved in excavations complete National Utility Contractors Association (NUCA) Dig Safe training within 12 months of the penalty notice, and the Company incurs no additional dig law violations within 12 months of the date of this Notice.

Staff's research indicates that Premier Landscaping has submitted two requests to locate underground utilities since 2015, and no other damages to underground facilities have been reported to the Commission. 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 Commission agrees with Staff's recommendation and assesses a penalty of \$1,000, with an offer to suspend \$500 of the penalty subject to the conditions listed above. The Commission will waive the \$500 suspended penalty if the Company complies with both conditions. If the Company fails to comply with either of these conditions, the suspended penalty amount will become immediately due and payable, in addition to any new penalties that the Commission may assess for additional violations.

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 \$1,000 penalty amount due; or
- Pay \$500 and notify the Commission that you accept the offer to suspend, and ultimately waive, \$500 of the \$1,000 penalty subject to the following conditions:
  - Company management and field employees involved in excavations attend NUCA Dig Safe training within 12 months of the date of this Notice; and
  - Submit documentation of attendance to the Commission within five (5) days of attending the training; and
  - Commit no further violations of RCW 19.122 within 12 months of the date of this Notice; or
- Request a hearing to contest the occurrence of any or all 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 February 4, 2019.

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

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**  
PENALTY ASSESSMENT DG-180998, Investigation # 7883

**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. **Accept conditions.** I admit that the violation occurred and have enclosed \$500 of the penalty amount. I also accept the Commission's offer to suspend, and ultimately waive, the remaining \$500 of the penalty amount subject to the following conditions:
- Company employees involved in excavations, including management, attend Dig Safe training within 12 months of this Notice; and
  - Submit documentation of attendance to the Commission **within five (5) days of attending the training;** and
  - Commit no further violations of RCW 19.122 within 12 months of the date of this Notice.
3. **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.

4. **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.”