



Washington State Dig Law Safety Committee

P.O. Box 734 • Poulsbo, WA 98370

August 12, 2020

**Committee Members
Represent:**

Local Government

Natural Gas Utility

Contractors

Excavators

Electric Utility

Consumer – Owned Utility

Pipeline Utility

Insurance Industry

**Utilities and Transportation
Commission**

**Telecommunications
Company**

Three At – Large Positions

Mark Johnson, Executive Director and Secretary
Members of the Commission
Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

Re: Review Committee Decision – Case 19-084 R&D Construction vs.
ZAYO

Dear Mr. Johnson:

The Washington State Dig Law Safety Committee received a complaint regarding a potential violation of Washington State Dig Law RCW 19.122.030 for work performed on August 29, 2019.

On, August 11, 2020, the committee formed a review board and heard Case 19-084 filed by against ZAYO.

The review board determined that the respondent, ZAYO, violated RCW 19.122.030(4)(a), for failure to locate Zayo's underground utility within two business days, without an agreement by both parties to extend the locate time frame.

Therefore, the committee recommends a total penalty of \$1000.00 is assessed to the respondent as follow:

Case 19-084 \$1000.00 penalty for one violation of RCW 19.122.030(4)(a)

The recommended penalty totals \$1000.00, with the possibility of \$800.00 deferred on the condition that ZAYO incurs no additional violations of RCW 19.122 within twelve months of receiving a penalty assessment order.

Please let me know if you have any questions regarding this case. I may be contacted at 206-794-9823

Sincerely,

A handwritten signature in black ink that appears to read "J. Walton".

Jim Walton, Chair
Cc: Lynda Holloway
Robert Ayers
George Huss

wsdlsafetycommittee@gmail.com

From: sendmail@washington-ucc.org
Sent: Thursday, September 12, 2019 7:28 PM
To: wsdlsafetycommittee@gmail.com
Subject: Complaint Form

Complaint Form Request

Requester Information

Name: Robert Ayers
Company: R&D Construction
Company Phone: (253)539-3034
Company Email: robertayersinc@gmail.com
Company Address: 7404 Golden Given rd E, Tacoma, 98404
Ticket Requested: yes
Ticket Number: 19371731
Ticket Date: 08/23/2019

Violation Information

Violation RCW: RCW 19.122.030
Violation Section: Locator did not show up in the 48 hours
Violation Description: I called in my ticket number 19371731 on 08-23-19 My time up for this was 08-28-19. I got a voice mail from the locator on 08-28-19 about 8:30 pm leaving a message saying I have not made out to your job to locate yet. I called the locator back and told him I have trucks and another company all lined up to start digging in the morning and my customer was out of service sewer line problems. I called the locator the morning of the 29th and he never pick up so I called locates and got the number for the company and called to talk with a supervisor to get some one out ASAP since crew was on site and no one has marked out the lines no one called me back the Locator showed up about 1 -2 pm first thing he said my drawings shows it goes to that pole it stop's at the pole before your dig area so you are all clear to dig. We waited all day and could not do any work because the line was never marked out and I still had to pay everyone for the day.
Violation Address: 514 S I st
Violation Date: 08/29/2019

Alleged Violator

Violator Name: zayo
Violator Phone Number: (888)267-1063
Violator Email: evans_dr@msn.com

George.huss@zayo.com
443.250.1816
1060 Hardees Drive, suite H
Aberdeen, Maryland 21001

Case 19-084

Violator Address: n/a, n/a, 11111

Violator Employess On Site: n/a

Other Information

Other Information:

Washington One Call

Ticket No: 19371731
2 FULL BUSINESS DAYS
Updated by: 19377867
Original Call Date: 08/23/19 02:26 pm
Work to Begin Date: 08/28/19 12:00 am
Expiration Date: 10/07/19 02:30 pm

CALLER INFORMATION

Company Name: R AND D CONSTRUCTION
Contact Name: ROBERT AYERS
Phone: 253-539-3034
Alt. Contact:
Phone:
Fax Phone:
Caller Address: PO BOX 44394 TACOMA, WA 98444
Email Address: ROBERTAYERSINC@GMAIL.COM

DIG SITE INFORMATION

Type of Work: INSTALL SEWER SERVICE
Work Being Done For: WILLAM

DIG SITE LOCATION

State: WA
County: PIERCE
Place: TACOMA
Address: 514
Street: S L ST
Intersecting Street:
Location of Work: MARK THE ALLEY AND THE ENTIRE BACK OF THE HOUSE AND INCLUDING ALL ROW AND EASEMENTS AT THE ABV ADD
Remarks: AREA MARKED IN WHITE.
Map Coord NW Lat: 47.2575913
Lon: -122.4560000
SE Lat: 47.2571948
Lon: -122.4542850

MEMBERS NOTIFIED

District	Company Name	Marking Concerns	Customer Service	Repair	Status
CC7711	COMCAST CABLE	800-762- 0592	800-934- 6489	855- 537- 6296	Not yet responded

District	Company Name	Marking Concerns	Customer Service	Repair	Status
ELCLT01	ZAYO FNA INTEGRA TELECOM	888-267- 1063	443-403- 2023	888- 267- 1063	Clear, No Utility Owned Facility in Excavation Area
PUGG07	PUGET SOUND ENERGY GAS	888-728- 9343	888-225- 5773	888- 225- 5773	Clear, No Utility Owned Facility in Excavation Area
QLNWA24		800-778- 9140	800-283- 4237	800- 573- 1311	Not yet responded
TACDPW01	CITY OF TACOMA PUB WORKS SIG	253-591- 5287	253-591- 5287	253- 591- 5287	Does not report
TACH2O01	TACOMA WATER DEPARTMENT	253-502- 8398	253-502- 8344	253- 502- 8344	Does not report
TACPWR01	TACOMA PWR & CLICK NETWORK	253-502- 8263	253-502- 8600	253- 383- 0982	Does not report
TACSEW01	TACOMA SEWER DEPARTMENT	253-591- 5585	253-591- 5585	253- 591- 5585	Does not report

Complaint Case 19-084

- Violation RCW: RCW 19.122.030
- Violation Section: Locator did not show up in the 48 hours
- Violation Description: I called in my ticket number 19371731 on 08-23-19 My time up for this was 08-28-19. I got a voice mail from the locator on 08-28-19 about 8:30 pm leaving a message saying I have not made out to your job to locate yet. I called the locator back and told him I have trucks and another company all lined up to start digging in the morning and my customer was out of service sewer line problems. I called the locator the morning of the 29th and he never pick up so I called locates and got the number for the company and called to talk with a supervisor to get some one out ASAP since crew was on site and no one has marked out the lines no one called me back the Locator showed up about 1 -2 pm first thing he said my drawings shows it goes to that pole it stop's at the pole before your dig area so you are all clear to dig. We waited all day and could not do any work because the line was never marked out and I still had to pay everyone for the day.
- Violation Address: 514 S I st
- Violation Date: 08/29/2019

Inaccuracies in the Complaint

- Locator left Voicemail for Robert Ayers on 8/27/2019, not 8/28/2019
 - Confirmed with phone records
- Locator's message indicated he could not get to the ticket, but would be out there the following morning
- Locator arrived on the morning of 8/28/2019, determined no Zayo lines were in conflict, entered positive response, marked "No Zayo" on the ground next to the white paint all by 11:30 AM
- On 8/29/2019, our dispatch did contact the field Supervisor, and field personnel re-confirmed with R&D that the line was not in conflict
- On 8/29/2019, when excavator claims crews arrived and waited for no reason the positive response indicating Zayo was not in conflict and the paint on-site indicating Zayo was not in conflict had already been placed

Phone Records from Locator

Detail for Michael Johnson: 360-480-7317

Voice, continued

Date	Time	Number	Rate	Usage Type	Origination	Destination	Min.	Airtime Chrgs	LD/Other Chrgs	Total
8/27	7:33 A	801-207-7017	Peak	PlanAllow	Centralia WA	Incoming CL	3	--	--	--
8/27	8:12 A	435-658-4685	Peak	PlanAllow	Centralia WA	Incoming CL	1	--	--	--
8/27	11:15 A	208-498-7218	Peak	PlanAllow	Seattle WA	Incoming CL	2	--	--	--
8/27	11:16 A	801-207-7017	Peak	PlanAllow,CallWait	Seattle WA	Incoming CL	2	--	--	--
8/27	11:41 A	208-498-7218	Peak	PlanAllow	Lynnwood WA	Incoming CL	6	--	--	--
8/27	11:48 A	360-850-1080	Peak	PlanAllow	Lynnwood WA	Incoming CL	1	--	--	--
8/27	12:47 P	508-254-7373	Peak	PlanAllow,M2M	Lynnwood WA	Incoming CL	3	--	--	--
8/27	12:48 P	208-498-7218	Peak	PlanAllow,CallWait	Lynnwood WA	Incoming CL	2	--	--	--
8/27	2:02 P	508-254-7373	Peak	PlanAllow,M2M	Lynnwood WA	Clarkston WA	1	--	--	--
8/27	2:04 P	508-254-7373	Peak	PlanAllow,M2M	Lynnwood WA	Incoming CL	32	--	--	--
8/27	2:56 P	208-498-7218	Peak	PlanAllow	Federal WA WA	Modesto CA	15	--	--	--
8/27	3:44 P	508-254-7373	Peak	PlanAllow,M2M	Lacey WA	Incoming CL	5	--	--	--
8/27	6:50 P	253-302-0968	Peak	PlanAllow,M2M	Centralia WA	Tacoma WA	2	--	--	--
8/27	6:54 P	425-551-8522	Peak	PlanAllow,M2M	Centralia WA	Everett WA	1	--	--	--
8/27	6:58 P	253-651-2308	Peak	PlanAllow	Centralia WA	VM Deposit CL	2	--	--	--
8/27	7:05 P	360-870-5084	Peak	PlanAllow	Centralia WA	Olympia WA	2	--	--	--
8/27	7:16 P	253-330-5464	Peak	PlanAllow	Centralia WA	Tacoma WA	2	--	--	--
8/27	7:22 P	253-538-3034	Peak	PlanAllow	Centralia WA	VM Deposit CL	2	--	--	--
8/27	7:28 P	253-921-8918	Peak	PlanAllow,M2M	Centralia WA	Incoming CL	2	--	--	--
8/27	7:29 P	206-623-3100	Peak	PlanAllow	Centralia WA	Seattle WA	2	--	--	--
8/27	7:33 P	253-408-4437	Peak	PlanAllow,M2M	Centralia WA	Auburn WA	6	--	--	--
8/27	7:42 P	425-314-8827	Peak	PlanAllow	Centralia WA	VM Deposit CL	2	--	--	--
8/27	7:45 P	253-722-4140	Peak	PlanAllow,M2M	Centralia WA	VM Deposit CL	2	--	--	--

Ticket

[Print Ticket](#) [View Original Ticket](#) [View Map](#)

Ticket No: 19371731

Revision: 0

Old Ticket No:

LatLong: 47.25759 , -122.456

Received Date: 8/23/2019 3:44:00 PM

StartDate: 8/28/2019 12:00:00 AM

Address: 514 S L ST

City: TACOMA

Cross Street:

State: WA

Company: R AND D CONSTRUCTION

Contact Phone: 2535393034

Contact Name: ROBERT AYERS

Fax:

Email Address: ROBERTAYERSINC@GMAIL.COM

Type of Work: INSTALL SEWER SERVICE

Work Done For: WILLAM

Extent of Work: MARK THE ALLEY AND THE ENTIRE BACK OF THE HOUSE AND INCLUDING ALL ROW AND EASEMENTS AT THE ABV ADD

Remarks: AREA MARKED IN WHITE.

Customers: PUGG07 TACDPW01 TACH2O01 TACPWR01 TACSEW01 CC7711 QLNWA24

Assignments: [ELCLT01-856](#)

Ticket Inspections:

Add Comments:

Comments:

Created	User	Comments
08/27_12:12_PM	856	ReviewRequiredByLocator
08/27_07:25_PM	856	CALLED ROBERT AYERS AT Phone: (253)539-3034 NO ANSWER, I LEFT A MESSAGE THAT WE WILL BE OUTTOMORROW TO GET THE SITE MARKED OUT...MJ

Ticket response

Created	Customer	LocatorId	BillingType	BillingQuantity	ArriveTime	DepartTime	Footage
8/27/2019 8:26:00 PM	ELCLT01	856	SV	1	08/27 07:10 PM	08/27 07:15 PM	0
8/28/2019 12:33:21 PM	ELCLT01	856	SV	1	08/28 11:25 AM	08/28 11:30 AM	0

Ticket Closed

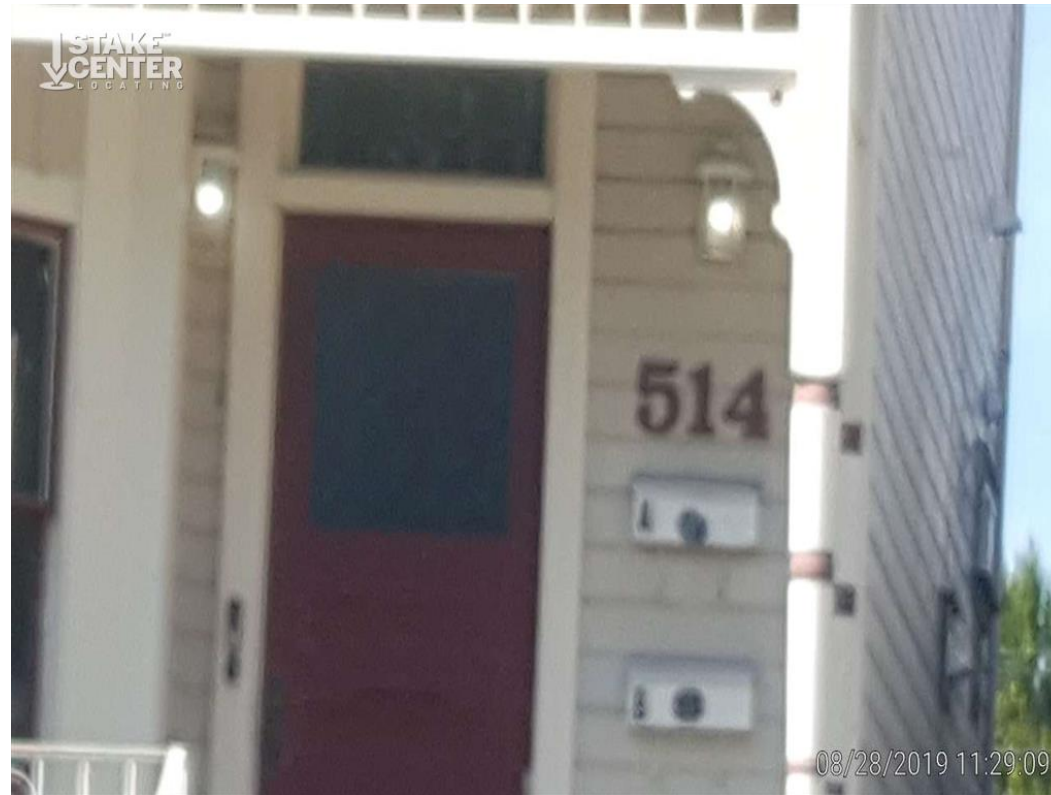
[View Ticket Images\(4\)](#)

[Add Attachments](#)

OriginalTicket

Tickets/GM

Picture from Locator on 8/28/2019 11:29 AM



Picture 2 from Locator on 8/28/2019 11:29 AM



Picture 3 from Locator on 8/28/2019 11:29 AM



Summary

- Locator attempted to contact the excavator, and left VM
- Locator completed the work the day before the crew arrived
- Locator posted positive response and painted “No Zayo” on the ground the morning of 8/28/2019
- Crew arrived on 8/29/2019
- After being contacted by the excavator on 8/29/2019, we re-confirmed the status
- We believe R&D may have checked voicemail the day after it was sent, had not seen the paint and the response, and mistakenly thought we had not responded yet when they arrived on 8/29/2019