

Service Date: March 25, 2021

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: DG-210177

PENALTY AMOUNT: \$2,500

Investigation # 8238

SERVICE VIA EMAIL

Gigrich Sales and Services Inc.
d/b/a Tanks by Dallas
17552 Ballinger Way NE
Lake Forest Park, WA 98155
tanksbydallas@tanksbydallas.net

UBI: 601-972-418

Phone: (206) 365-0291

The Washington Utilities and Transportation Commission (UTC or Commission) believes that Gigrich Sales and Services Inc. d/b/a Tanks by Dallas (Tanks by Dallas or Company) has violated Revised Code of Washington (RCW) 19.122.055(1)(a), by failing to provide the required notice to facility operators through a one-number locator service before excavating and subsequently causing damage to an underground natural gas facility. RCW 19.122.055 states, in part, that any excavator who fails to notify a one-number locator service and causes damage to an underground 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 reports submitted by Puget Sound Energy (PSE) that identified a natural gas damage event involving Tanks by Dallas. Accordingly, the Commission hereby notifies you that it is assessing a penalty of \$2,500 against the Company on the following grounds:

On July 10, 2020, Puget Sound Energy (PSE) submitted a Damage Information Reporting Tool report identifying Tanks by Dallas as the party responsible for damaging natural gas service lines on June 2, 2020. The report alleges the Company was excavating without a valid dig ticket at 1910 Edgemont Place, Seattle, Washington. Staff reviewed the One Call Center database and did not find a valid dig ticket for the Company at this location. The incident investigation report submitted by ELM Services confirmed, and the Company acknowledged that it did not have a valid dig ticket at the time of the damage.

Previously, on July 5, 2018, the Commission mailed an Alleged Violation of Washington Dig Law letter to Tanks by Dallas. The letter included detailed information about Washington State's underground utility damage prevention act, requirements for submitting utility locate requests before beginning excavation, and the possibility of penalties for each violation. The Commission mailed the letter after it received a report of damage caused by the Company on April 2, 2018.

Additionally, on October 11, 2019, the Commission assessed a \$2,000 penalty against Tanks by Dallas in Docket DG-190741 for two violations of RCW 19.122.055 for failing to notify the one-number locator service before excavating.

Staff recommends the Commission assess a \$2,500 penalty against Tanks by Dallas for one violation of RCW 19.122.055 for failing to notify the one-number locator service before excavating.

Staff's research indicates Tanks by Dallas has submitted 70 requests to locate underground utilities since June 2, 2020, and that 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. After considering all of the circumstances, Staff recommends that the Commission offer to suspend the entire \$2,500 penalty amount for one year, subject to the conditions that: (1) the Company incurs no further violations of RCW 19.122 within 12 months of the date of this Notice; and (2) Company management, supervisors, and applicable field staff completes NUCA Dig Safe Online Training within 90 days of this Notice.

The Commission agrees with Staff's recommendation and assesses a penalty of \$2,500 with an offer to suspend, and ultimately waive, the entire \$2,500 penalty amount subject to the conditions listed above. If the Company fails to comply with the conditions, the \$2,500 suspended penalty will become immediately due and payable, in addition to any new penalties that the Commission may assess for new 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 their decision.

You must act within 15 days after receiving this notice to do one of the following:

- Pay the \$2,500 penalty amount due: or
- Notify the Commission that you accept the offer to suspend, and ultimately waive, the suspended \$2,500 penalty amount subject to the following conditions:
 - Company management, supervisors, and applicable field staff must attend [online Dig Safe training](#) provided through NUCA within 90 days of the date of this Notice;
 - **The Company must submit documentation of that attendance to the Commission within five (5) days of attending the training;** and

- The Company must not commit any further violations of RCW 19.122 within 12 months of the date of this Notice; or
- Request a hearing to contest the occurrence of the violation; 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 Lacey, Washington, and effective March 25, 2021.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT DG-210177, Investigation # 8238

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 \$2,500 in payment of the penalty.

2. **Contest the violation.** I believe that the alleged violation did not occur for the reasons I describe below (**if you do not include reasons supporting your contest here, your request will be denied**):

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 (**if you do not include reasons supporting your application here, your request will be denied**):

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.”