



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250

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May 19, 2017

Steven V. King, Executive Director and Secretary
Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Earthscapes NW, Inc.*
Commission Staff's Response to Mitigation Request.
Docket D-170117

Dear Mr. King:

On April 17, 2017, the Utilities and Transportation Commission (commission) assessed a \$6,000 Penalty Assessment in Docket D-170117, against Earthscapes NW, Inc. (Earthscapes) for two violations of RCW 19.122. These violations were based on a referral from the Washington State Dig Law Safety Committee (Safety Committee).

On May 1, 2017, the commission received a timely response from Earthscapes admitting the violations occurred and requesting mitigation of the penalty based on the written information provided. The company failed to provide any additional detail or information in support of their mitigation request. They simply checked the box stating they would like to mitigate the penalty.

On May 5, 2017, a Notice of Opportunity to File Written Response was sent to Earthscapes providing them additional time to explain how the violations occurred and why they believe the penalty should be reduced. The deadline to file this written response was May 12, 2017, and Earthscapes failed to respond.

Staff reviewed the original case file and researched Earthscapes' history of requesting utility locates and found that since Jan. 1, 2016, they have requested 162 utility locates in the state of Washington. This is an average of approximately 10 utility locate requests per month over the last 16-months.

Staff believes that the violations were the result of negligence or miscommunication on the company's part, as opposed to lack of knowledge of the requirements of Washington state's Dig Law. Staff also believes that Earthscapes has been already provided a significant reduction in

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potential penalties when Puget Sound Energy (PSE) agreed to withdraw seven of their original nine complaints during the Safety Committee review held on Jan. 25, 2017. PSE withdrew the complaints because Earthscapes took full responsibility for the violations that occurred and provided evidence that they were taking the necessary steps to prevent future violations from happening. If PSE had pursued all nine complaints, Earthscapes could have faced a penalty of up to \$41,000.

Due to Earthscapes failure to file a written response providing reasons why the commission should consider mitigating the original penalty, coupled with the fact the company has already received a significant reduction in the potential penalty amounts, staff recommends that the commission deny Earthscape's mitigation request and enforce the full \$6,000 penalty.

Sincerely,

Sean C. Mayo
Pipeline Safety Director