

December 27, 2006

Sally Johnston  
Senior Assistant Attorney General  
Attorney General's Office  
PO Box 40128  
Olympia, Washington 98504-0128

Dear Ms. Johnston:

**Subject: Letter Requesting Enforcement Action** (Docket No. PG-061851)

The Washington Utilities and Transportation Commission formally requests that the Attorney General's Office institute enforcement action against L.L. Lindberg Company ("L.L. Lindberg") of Vancouver, Washington, for violation of the Underground Utilities law, RCW 19.122.

At the request of the Pipeline Safety Staff of the UTC, Northwest Natural Gas Company (NW) and Cascade Natural Gas Company (Cascade) provided staff with underground facility damage data for purposes of identifying repeat violators of the dig law whose actions caused significant damage and risk to public safety. L.L. Lindberg was identified as one of the repeat violators.

Cascade and NW have provided documentation of 13 separate incidents between December 2004 and July 2006, in which L.L. Lindberg caused damage to NW or Cascade's underground natural gas pipeline facilities. Several of those incidents resulted in gas escaping into the atmosphere. All incidents posed a safety hazard. It appears from this information that L.L. Lindberg has repeatedly violated RCW 19.122. This law requires excavators to:

- Request locates of underground facilities in the dig area, 19.122.030 (1);
- Wait two business days before digging, and dig within 10 days, 19.122.030 (2);
- Notify the underground facility owner when they have contacted or damaged a pipe, 19.122.050 (1).
- Use reasonable care to avoid damaging underground facilities, 19.122.040(2)

It appears L.L. Lindberg is in violation of at least one of the above-mentioned sections of Chapter 19.122 RCW for each instance where it damaged either NW or Cascade facilities.

The documentation provided by NW Natural describes how it has had considerable success with most excavators through its training program on compliance with RCW 19.122. NW stated that L.L. Lindberg is one of the few excavators who ignored all of the company's educational efforts.

The commission recommends that the Attorney General's Office consider filing a summons and complaint against L.L. Lindberg seeking a maximum penalty in the amount of \$120,000 in accordance with Chapter 19.122 RCW.055 (1). The statute provides for a civil penalty in the amount of \$10,000 per violation. The fact that L.L. Lindberg continues to violate RCW 19.122 and willingly pays the bill for repairs plus treble damages when damage occurs, illustrates the need for enforcement action to achieve compliance with the law.

In the event of any settlement, the commission recommends that the Attorney General include in the settlement order a requirement that L.L. Lindberg establish a formal written training program and manual to educate its employees on the provisions of Chapter 19.122 RCW. The program should include but not be limited to the following:

- All key elements of the Underground Utilities Law (Chapter 19.122 RCW);
- Use of the one-call number for locates;
- Use of reasonable care – including planning excavations around existing underground facilities;
- Annual dig law refresher course for excavation employees; and
- Procedures for conducting post-accident/damage investigations to determine how accidents/damage could have been prevented and the revision of company procedures accordingly.

The contact person for NW Natural is Bruce Paskett, Chief Engineer, at (503)226-4211. The contact person at Cascade is Keith Meissner, Safety & Compliance Manager, at (206) 624-3900. Mr. Paskett and Mr. Meissner are committed to assisting the Attorney General with this matter. Commission staff is also available to assist as required. Please contact Alan Rathbun, Pipeline Safety Director, at (360) 664-1254 if you have any questions.

Sincerely,

Carole J. Washburn  
Executive Secretary