

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: UT-143954
PENALTY AMOUNT: \$2,500

Qwest Corporation d/b/a/ CenturyLink QC (CenturyLink)
1600 – 7th Ave Rm. 1506
Seattle, WA 98191

The Washington Utilities and Transportation Commission (Commission) believes that you have violated Revised Code of Washington (RCW) 19.122.030(3)(a) by failing to mark underground facilities accurately. RCW 19.122.070(1) states, in part, that violation of any provision of the chapter is subject to a civil penalty of not more than one thousand dollars for an initial violation and not more than five thousand dollars for each subsequent violation within a three-year period.

The Commission reviewed findings and recommendations made by the Washington State Dig Law Safety Committee (Safety Committee) and hereby notifies you that it is assessing a penalty against you in the amount of \$2,500 on the following grounds:

On December 4, 2013, Thurston Electric LLC (Thurston) submitted utility locate requests to the National Ticket Management System Washington One Call (One Call). Thurston submitted the requests in accordance with RCW 19.122.030(2) prior to excavation for the purposes of digging trenches and setting light pole bases.

Five utility providers, including Qwest Corporation d/b/a/ CenturyLink QC (CenturyLink), received notification from One Call with instructions to locate utility services in the area identified on Dig Ticket 13317728 within two business days. CenturyLink, through its contract locator, Locating, Inc., located the utility's underground facility; however, according to Thurston, the marking was incomplete.

On January 9, 2014, Thurston submitted a second utility locate request to One Call. This locate request was to update the previous One Call ticket and requested that CenturyLink once again mark the area with the best information available.

Once again, five utility providers, including CenturyLink, received notification from One Call with instructions to locate utility facilities in the area identified on Dig Ticket 14005758 within two business days. CenturyLink, through its contract locator, Locating, Inc., located and marked the utility's underground facilities a second time.

On, or around January 14, 2014, Thurston began excavation and damaged underground telephone conduits/cables owned by CenturyLink. CenturyLink subsequently billed Thurston for the damage. Thurston disagreed with the charges, stating that CenturyLink did not properly mark its underground facilities, as required by RCW 19.122.030.

On November 12, 2014, the Safety Committee conducted a hearing with the Complainant, Thurston, and the Respondent, CenturyLink. The Safety Committee found that CenturyLink violated RCW 19.122.030(3)(a) by not marking its underground facilities within the area marked for excavation.

As this violation represents the second violation for CenturyLink in the past 12 months, the Safety Committee recommended the commission issue a penalty of \$2,500 against the Respondent, CenturyLink.

Pursuant to RCW 19.122.150(3), the Commission has considered the Safety Committee's determination and adopts its recommendation. The Commission assesses a penalty of \$2,500.

This information the Safety Committee provided to the Commission, if proved at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe the violations did not occur, you may request a hearing to contest the penalty assessment. The Commission will grant that request only if material issues of law or fact require consideration of evidence and resolution in a hearing. A request for a hearing must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. If there is a reason for the violation that you think should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or in writing. A request for mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request.

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 amount due.
- Request a hearing to contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

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Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office 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 10, 2015.

GREGORY J. KOPTA
Director, Administrative Law Division

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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 \$_____ in payment of the penalty.
[] 2. Request for a hearing. I believe that the alleged violation did not occur for the reasons I describe below, and I request a hearing based on those reasons for a decision by an administrative law judge:
[] 3. Application for 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.”