

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

**PENALTY ASSESSMENT: D-180664
PENALTY AMOUNT: \$1,000
Investigation # 7889**

Ty Lemaster
Manager Region Operations
CenturyLink
904 N. Columbus St
Spokane, WA 99202

UBI: 601-295-793
Phone: (509) 835-4600

The Washington Utilities and Transportation Commission (Commission) believes that you have violated Revised Code of Washington (RCW) 19.122.030(4)(a) by failing to provide an excavator with information regarding the location of your underground facilities within two business days of receiving notice by the excavator. RCW 19.122.070(1) states, in part, that violations of any provision of the chapter are subject to a civil penalty of not more than \$1,000 for an initial violation and not more than \$5,000 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 \$1,000 on the following grounds:

On July 18, 2018, the Safety Committee heard the complaint for case 18-066 against CenturyLink and determined that it violated RCW 19.122.030(4)(a) by failing to provide GeoEngineers information about the location of its underground facilities within two business days of receipt of GeoEngineers' request to locate underground facilities.

The Safety Committee recommended that the following \$1,000 penalty be assessed to CenturyLink:

- \$1,000 penalty for one violation of RCW 19.122.030(4)(a).

Commission regulatory staff (Staff) reviewed the Safety Committee's recommendation and agrees with its conclusion. Staff found that CenturyLink committed one violation of RCW 19.122.030(4)(a). Staff based this decision on the following information provided by the Safety Committee:

GeoEngineers alleged that on June 12, 2018, scheduled excavation was delayed for approximately five hours due to US Infrastructure Company (USIC), the contracted locator of CenturyLink, failing to respond to a request made by GeoEngineers on June 7, 2018, to locate and mark CenturyLink's underground utilities. This request was assigned dig ticket

#18240932 by the one-call notification system. On June 12, 2018, GeoEngineers arrived at the site to begin excavation and found that CenturyLink's underground utilities had not been located. GeoEngineers contacted USIC, who arrived to locate CenturyLink's underground facilities at approximately 2:15 p.m. on June 12, 2018, which is more than two business days after CenturyLink received the request made by GeoEngineers.

The Safety Committee determined that CenturyLink's locator violated RCW 19.122.030(4)(a) by not providing information to an excavator pursuant to subsection (3) within two business days.

Staff investigated this referral from the Safety Committee and reviewed photographs and documentation submitted by the Safety Committee, GeoEngineers, and the one-call ticket database, and agrees with the findings of the Safety Committee.

Based on the results of Staff's investigation, the Commission finds that CenturyLink violated RCW 19.122.030(4)(a) one time by failing to mark its underground facility within two business days of receiving notice of excavation from GeoEngineers. The Commission assesses a \$1,000 penalty for the violation. 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 his or her decision.

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

- Pay the \$1,000 amount due; 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, 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 December 20, 2018.

/s/ Rayne Pearson

RAYNE PEARSON

Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT D-180664, Investigation # 7889

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 \$1,000 in payment of the penalty.

2. **Contest the violation.** I believe that the alleged violation did not occur for the reasons I describe 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.

3. **Request 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.”