

# WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: UE-132298

PENALTY AMOUNT: \$1,000

Pacific Power & Light Company  
825 NE Multnomah, Suite 2000  
Portland, OR 97232

The Washington Utilities and Transportation Commission (Commission) believes that you have committed one or more violations of the Revised Code of Washington (RCW) 19.122.030(3) for failure to mark the company's utility infrastructure within two business days. 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.

Commission staff reviewed findings and recommendations made by the Review Committee of the Washington State Dig Law Safety Committee (Review Committee). As a result, the Commission hereby notifies you that it has assessed penalties against you in the amount of \$1,000 on the following grounds:

On February 5, 2013, Appletree Development, aka Borton and Sons (Borton and Sons) submitted a utility locate request to the National Ticket Management System Washington One Call (One Call). Borton and Sons submitted the request in accordance with RCW 19.122.030(2) prior to starting excavation to install a sewer main in Yakima.

Nine utility providers, including Pacific Power & Light Company (PP&L), received notification from One Call with instructions to locate utility services in the area identified on Dig Ticket 13025011 within two business days.

On February 19, 2013, Borton & Sons began excavation and damaged underground electrical conduits/cables owned by PP&L. PP&L subsequently billed Borton and Sons for the damage. Borton and Sons disagreed with the charges, stating that PP&L did not mark its facilities, as required by RCW 19.122.030.

On November 14, 2013, the Review Committee conducted a hearing with the Complainant, Borton and Sons, and the Respondent, PP&L. The Review Committee found that PP&L violated RCW 19.122.030(3) by not marking its existing utility infrastructure in the area identified on Dig Ticket 13025011 within the required two business days.

The Review Committee recommended the Commission issue a first offense penalty assessment of \$1,000, with the option of suspending \$800 on the condition that PP&L and its contract locator attend Dig Safe training within 90 calendar days of a final

decision by the Commission. The Review Committee also recommended that PP&L be made aware that they will be subject to the next level of penalty, and required to pay the suspended \$800, if a subsequent violation occurs within 12 months of the Commission's decision.

The Commission agrees with the Review Committee's recommendation. The Commission therefore assesses a penalty of \$1,000, with the option of mitigating \$800 on the conditions that (1) PP&L and its contract locator attend Dig Safe training within 90 days; and (2) PP&L commits no further violations of RCW 19.122.030 within the next 12 months.

This information, 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. If there is a reason for the violations that you think should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty. *See* RCW 19.122.150.

You have the right to present your request for review or mitigation at a hearing, but you are not required to do so. If you do, the Commission will review the evidence supporting your request in an informal hearing, called a Brief Adjudicative Proceeding, before an administrative law judge. The administrative law judge will consider your plea and notify you of his or her decision.

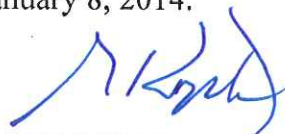
**You must act within 15 days after receiving this notice** to do one of the following:

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

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 January 8, 2014.



GREGORY J. KOPTA  
Director, Administrative Law Division

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**  
**PENALTY ASSESSMENT UE-132298**

**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. **Request for a hearing.** I believe that the alleged violation did not occur, based on the following information, and request a hearing, which is a process that allows an affected person to present argument to an administrative law judge 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 reason(s) set out below:
  - a) I request the penalty be reduced to \$200, on the condition that PP&L and its contract locator attend Dig Safe training within 90 days, and incur no further violations of RCW 19.122.030 within the next 12 months.
  - b) I ask for a hearing for a decision by an administrative law judge based on the information presented above.
  - c) I waive a hearing and ask for an administrative decision on the information I present directly 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

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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.”