

# WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: UT-132299

PENALTY AMOUNT: \$1,000

Frontier Communications Northwest, Inc.  
1800 41<sup>st</sup> Street  
Everett, WA 98201

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 failing 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, as follows:

On March 28, 2013, Trenchless Construction Services Construction, LLC (Trenchless), submitted a utility locate request to the National Ticket Management System - Washington One Call (One Call). Trenchless submitted the request in accordance with RCW 19.122.030(2) prior to starting construction to install fiber conduit. Frontier Communications Northwest, Inc. (Frontier), received notification from One Call to locate utility services within two business days, as identified on Dig Ticket 13070653.

On April 25, 2013, Trenchless began construction in the marked area and struck Frontier's underground facilities. Trenchless was unaware of those facilities because Frontier had not marked them, as required by RCW 19.122.030.

The Review Committee recommended the Commission issue a first offense penalty assessment of \$1,000. The Commission agrees with the Review Committee's recommendations and therefore assesses a total penalty of \$1,000.

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 UT-132299

**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 ask for a hearing for a decision by an administrative law judge based on the information presented above.
  - OR  b) 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

-----  
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.”