

# WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: D-141416

PENALTY AMOUNT: \$1,000

Precision Underground  
4245 183<sup>rd</sup> Ave SW  
Rochester, WA 98579

The Washington Utilities and Transportation Commission (Commission) believes that Precision Underground (Precision) has committed one or more violations of the Revised Code of Washington (RCW) 19.122.030(1)(a) by failing to mark the boundary of the excavation area with white paint applied on the ground of the worksite. 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 Dig Law Safety Committee (Safety Committee). As a result, the Commission hereby provides notice that it has assessed a penalty against Precision in the amount of \$1,000 on the following grounds:

On April 29, 2014, according to Cascade Natural Gas Corporation (Cascade), a contractor from Precision did not mark the excavation area with white paint prior to submitting a utility locate request. Cascade Natural Gas contacted the contractor with Precision twice by email and requested that the boundary of the excavation area be marked with white paint. According to Cascade Natural Gas, the contractor refused and stated he was exempt from marking the area with white paint.

On July 9, 2014, the Safety Committee conducted a hearing with the Complainant, Cascade Natural Gas, and the Respondent, Precision. The Safety Committee found that Precision violated RCW 19.122.030(1)(a) by not meeting the requirement of marking the proposed excavation area in white paint prior to calling for a locate. The Safety Committee also determined that Precision did not meet the criteria established in RCW 19.122.030(1)(b) to be exempted from marking the area to be excavated in white paint.

The Safety Committee recommended the Commission issue a first offense penalty assessment of \$1,000, with the option of suspending the full penalty on the condition that Precision has no further confirmed violations of the requirements for marking in white paint as outlined in RCW 19.122.030(1)(a). The Safety Committee also recommended that Precision be made aware that it may be subject to the next level of penalty, \$5,000, and will be required to pay the suspended \$1,000, if a subsequent violation occurs within 12 months of the Commission's decision.

The Commission agrees with the Safety Committee's recommendation. The Commission, therefore, assesses a penalty of \$1,000 and provides Precision with the option of agreeing to suspension of the penalty in its entirety on the condition that Precision has no further violations of RCW 19.122.030(1)(a) 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. 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 violations 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. See RCW 80.04.405.

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 amount due.
- Request a hearing to contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.
- Request suspension of the penalty on the condition that Precision commits no further violations of RCW 19.122.030(1)(a) within the next 12 months.

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 November 5, 2014.



GREGORY J. KOPTA  
Director, Administrative Law Division

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**  
**PENALTY ASSESSMENT D-141416**

**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.
4. **Request suspension.** I admit the violation occurred and accept the Commission's offer to suspend the penalty on the condition that I commit no further violations of RCW 19.122.030(1)(a) within the next 12 months.

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.”