

Service Date: September 13, 2021

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: D-210500

PENALTY AMOUNT: \$5,000

Investigation # 8228

SERVICE VIA EMAIL

UBI: 179-010-055

Puget Sound Energy
PO Box 97034
Bellevue, WA 98009
(206) 402-9142
Charlie.Gadzik@pse.com
Erika.Hunter@pse.com

The Washington Utilities and Transportation Commission (Commission) believes that Puget Sound Energy (PSE or Company) has violated the Revised Code of Washington (RCW) 19.122.030(3)(1)(a) by failing to provide the excavator with reasonably accurate information by marking the location of your underground facilities after receiving notice from the excavator to a one-number locator service. 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 \$5,000 penalty against you on the following grounds:

On June 17, 2021, Safety Committee heard case 21-014 against PSE and determined the Company violated RCW 19.122.030(3)(1)(a) by failing to provide the excavator with reasonably accurate information by marking its location. The Safety Committee recommended that the Commission impose a \$5,000 penalty.

Commission staff (Staff) agrees with the Safety Committee's findings of probable violation and the penalty recommendation. Staff based this decision on the following information and investigation.

Staff conducted an investigation that included reviewing damage reports, investigation reports, and emails submitted by PSE, ELM Services, and SEFNCO Communications (SEFNCO). These documents identified a natural gas event that involved SEFNCO damaging an unlocated natural gas line.

On June 30, 2020, SEFNCO was excavating at the intersection of Pioneer Way and Meridian Ave, Puyallup, Washington. While digging they struck a PSE 4-inch main, which caused 47 customers to lose service. The incident required an emergency response and was

Federally reportable. The locate marks on the ground read “No PSE electric and No PSE gas.” PSE’s locator failed to identify PSE’s underground facilities.

The Damage Information Reporting Tool report submitted by PSE on August 8, 2020, indicates there was a valid locate ticket, but the locator failed to accurately mark PSE’s underground gas line. Staff’s investigation of this damage incident determined that SEFNCO had a valid dig ticket for the excavation, and the damage incident was a result of PSE’s failure to accurately locate its underground gas lines.

While PSE’s damage prevention program and membership in 811 meets federal pipeline safety regulatory requirements, PSE did not fulfill its obligation to locate its facilities per RCW 19.122. PSE has accepted responsibility for the failed locate and explained to the Safety Committee that it has implemented an audit program and taken steps to improve its locate services training.

The Commission has taken the following previous enforcement actions against PSE for dig law violations:

- On June 24, 2021, the Commission issued a penalty of \$5,000 against PSE for one violation of RCW 19.122.030(3)(a) in docket D-210358. The investigation determined that PSE failed to provide reasonably accurate underground gas facility markings.
- On March 10, 2021, the Commission issued a \$5,000 penalty against PSE for one violation of RCW 19.122.030(3)(a) in docket D-200813. The investigation determined PSE failed to provide reasonably accurate underground gas facility markings.
- On July 15, 2019, the Commission issued a warning letter to PSE regarding a violation of RCW 19.122.030(3)(a) that occurred on September 11, 2018. The investigation of that case determined there was sufficient evidence to pursue a penalty for the violation if the excavator had included that area within the area covered by the ticket.
- On January 18, 2017, the Commission issued a penalty of \$2000 against PSE for two violations of RCW 19.122.030(3)(a) in docket D-161231. The first violation was cited for failure to properly locate and mark an underground gas line. The second violation was cited for failure to provide reasonably accurate underground gas facility markings.

The Commission agrees with Staff’s recommendation and assesses a penalty of \$5,000.

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 their decision.

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

- Pay the \$5,000 penalty amount due
- 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, P.O. 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 Lacey, Washington, and effective September 13, 2021.

/s/Rayne Pearson
RAYNE PEARSON
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT D-210500, Investigation #8228

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 \$5,000 in payment of the penalty.

2. **Contest the violation.** I believe that the alleged violation did not occur for the reasons I describe below (**if you do not include reasons supporting your contest here, your request will be denied**):

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 provided above.

3. **Request mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reasons set out below (**if you do not include reasons supporting your application here, your request will be denied**):

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 provided 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.”