



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

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June 29, 2017

Steven V. King, Executive Director and Secretary
Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. TT&E, LLC*
Commission Staff's Recommendation to Impose Suspended Penalty Amount
Docket D-170116

Dear Mr. King:

On April 21, 2017, the Utilities and Transportation Commission (commission) issued a \$46,000 Penalty Assessment in Docket D-170116, against TT&E, LLC (TT&E) for 10 violations of RCW 19.122. These violations were based on a referral from the Washington State Dig Law Safety Committee (Safety Committee).

The Safety Committee initially recommended that a \$56,000 penalty be levied against TT&E for committing 12 violations of RCW 19.122. The recommendation also included a requirement for National Utility Contractor Association (NUCA) Dig Safe Training for all employees, including ownership and management.

Staff reviewed the Safety Committee's recommendation and could not support two of the violations. After removing these two violations, which each carried a maximum amount of \$5,000, staff recommended a total penalty against TT&E of \$46,000. Staff believed that enforcing the entire \$46,000 penalty against TT&E would be financially burdensome and recommended that the commission suspend \$25,000 of the penalty on the conditions that the company commit no further violations of RCW 19.122, and that all company personnel attend NUCA training.

The commission agreed with staff's modifications to the Safety Committee recommendation and on April 24, 2017, assessed a penalty of \$46,000 with an offer to suspend \$25,000 of the penalty on the two previously stated conditions. TT&E received the penalty assessment via certified mail on April 28, 2017.

On May 9, 2017, the commission received a response from TT&E's attorney, Russel Hermes, requesting a mitigation hearing. The response did not provide any additional information or support for the hearing request. On May 19, 2017, the commission issued a Notice of Opportunity to File Written Response with a deadline of May 26, 2017.

On May 24, 2017, the commission received a letter from Mr. Hermes which provided reasons for which TT&E believed they deserved a mitigation hearing. The commission considered the arguments submitted by TT&E and determined in Order 01, effective June 5, 2017, that the recommended penalty amount was justified and the mitigation request was being denied.

Order 01 stated that TT&E must either pay the \$21,000 portion of the penalty that is not suspended, or file jointly with staff a proposed payment arrangement within 20 days of the effective date of Order 01¹. The deadline for these actions to occur was June 25, 2017. As of the date of this letter, TT&E failed to pay the required \$21,000 portion of the penalty that is due, and made no attempt to contact staff to set up a payment plan.

Staff recommends the commission impose the suspended \$25,000 portion of the original penalty amount as a result of TT&E failing to comply with the requirements of Order 01.

Sincerely,

Sean C. Mayo
Pipeline Safety Director

¹ Order 01 entered on June 5, 2017, incorrectly cited a \$19,000 portion of the penalty that is not suspended. The correct amount is \$21,000. An Erratum to Order 01 was sent to all parties of record on June 6, 2017, correcting this error.