

Service Date: December 8, 2017

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: PL-17-1148
PENALTY AMOUNT: \$10,000

RECEIVED
RECORDS MANAGEMENT
2018 JAN -5 AM 11:37
STATE OF WASHINGTON
UTIL. AND TRANSPORTATION
COMMISSION

SEFNCO Communications, Inc.
2904 4th Ave. NE
Puyallup, WA 98372

The Washington Utilities and Transportation Commission (Commission) believes SEFNCO Communications, Inc. (SEFNCO) has violated Revised Code of Washington (RCW) 19.122.030(2) by failing to provide the required notice to a one-number locator service not less than two business days before excavating. RCW 19.122.055(1)(a) states, in part, that any excavator that fails to notify a one-number locator service and causes damage to a hazardous liquid underground facility is subject to a civil penalty of not more than ten thousand dollars for each violation.

Commission pipeline safety staff (Staff) conducted an investigation into the damage incident involving the McChord Pipeline that occurred on Aug. 2, 2017, and hereby notifies you that it is assessing a penalty against you in the amount of \$10,000 on the following grounds:

On August 2, 2017, SEFNCO was directional drilling to install a cable line at 9911 Pacific Ave. in Tacoma, Washington. While drilling, SEFNCO hit and punctured the six-inch McChord Pipeline that transports jet fuel from the US Oil Refinery, located in the Tacoma tide flats, to Joint Base Lewis McChord. As a result of this incident, approximately 7,500 gallons of jet fuel leaked from the pipeline, 6,500 gallons of which was ultimately recovered. SEFNCO also hit and caused minor damage to a 10-inch City of Tacoma water main.

Staff's investigation found that SEFNCO failed to properly provide the required notice to a one-number locator service for the area in which the damage incident occurred. On July 26, 2017, SEFNCO submitted a utility locate request for the address 9911 Pacific Ave. in Tacoma, WA. SEFNCO indicated on the utility request that the area of excavation would be marked in white paint as required by RCW 19.122.030(1)(a). SEFNCO only marked a small area in white paint on the West end of 100th street which was approximately 475 feet from where SEFNCO hit and damaged the McChord Pipeline.

Staff's investigation also determined that several locators for utility operators informed SEFNCO prior to the damage incident that it needed to request new utility

locates because the excavation area had changed from what SEFNCO originally marked in white paint. SEFNCO did not submit a utility locate request for its new proposed excavation area. SEFNCO proceeded to directly contact two of the utility operators that it thought were in the proposed excavation area, but SEFNCO did not notify McChord Pipeline because SEFNCO was not aware that the pipeline crossed the new excavation path.

SEFNCO has a significant history of requesting utility locates. SEFNCO has submitted 1,358 such requests since Jan. 1, 2017. The violation on July 26, 2017, thus was the result of company negligence, not a lack of knowledge of the requirements of Washington State's dig law.

Staff determined that SEFNCO committed one violation of RCW 19.122.030(2), by failing to provide the required notice to a one-number locator service not less than two business days before excavating. Due to the nature of this damage incident, and the increased risk of property damage and bodily harm it placed on the general public, Staff recommends the maximum \$10,000 penalty be enforced to help deter future incidents from occurring.

The Commission agrees with Staff's recommendation and assesses a penalty of \$10,000.

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 this violation did not occur, you may deny committing the violation and contest the penalty assessment 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 concerning the violation require consideration of evidence and resolution in a hearing. Any contest of the penalty assessment must include a written statement of the reasons supporting that contest. Failure to provide such a statement will result in denial of the contest.

If you admit the violation but believe there is a reason for the violation that should excuse you from the penalty, you may ask for mitigation (reduction) of this 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 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.

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 \$10,000 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, 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 December 8, 2017.

/s/ Gregory J. Kopta
GREGORY J. KOPTA
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT PL-171148

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 \$10,000 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. Please attach separate sheets if necessary):
- 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.
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. Please attach separate sheets if necessary):
- 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.

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: 1/2/2018 [Month/Day/Year], at Puyallup, WA [City, State]

SEFNCO Communications Inc
Name of Respondent (company) – please print
RCW 9A.72.020:



Signature of Applicant

“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.”



4610 Tacoma Ave
Sumner, WA 98390
Main: 877-385-2903
Fax: 866-492-9650

Washington Utilities and Transportation Commission
PO Box 47250
Olympia WA 98504-7250

To whom it may concern;

The notice of penalties is not accurate and we request a hearing with an administrative law judge. A locate ticket was called in on July 26, 2017 which, together with the white paint used, served as notice McChord Pipeline and the scope of work did not change; no water main was damaged.