



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250

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July 20, 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 Accept Penalty Payment Plan.  
Docket D-170116

Dear Mr. King:

On April 24, 2017, the Utilities and Transportation Commission (commission) issued a \$46,000 Penalty Assessment in Docket D-170116, against TT&E, LLC (TT&E or company) for 10 violations of RCW 19.122. These violations were based on a referral from the Washington State Dig Law Safety Committee.

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 for two years, and that all company personnel attend National Utility Contractor's Association (NUCA) Dig Safe training.

The commission agreed with staff's recommendation and 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 24, 2017, the commission received a letter from TT&E's attorney, Russel Hermes, which provided reasons for which the company believed they deserved a mitigation hearing. The commission considered the arguments submitted by the company and determined in Order 01, effective June 5, 2017, that the recommended penalty amount was justified and the mitigation request was 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 01<sup>1</sup>. The deadline for these actions to occur was June 25, 2017. 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.

On June 29, 2017, staff recommended 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. Upon receiving this letter, company representative Ben Tanielian contacted the commission and stated there was a misunderstanding involving the company's response to Order 01, and requested an exception to be allowed to set up a payment plan as originally proposed. Staff requested Mr. Tanielian submit a written request providing further details of the company's argument.

On July 10, 2017, the commission received a written response from Mr. Tanielian requesting a reconsideration of imposing the suspended portion and allowing the company to set up a payment plan. Mr. Tanielian stated the reason for the company's failure to respond to Order 01 was due to a miscommunication with their attorney, Mr. Hermes. He also stated the company has hired a new employee to solely focus on processing and documenting utility locates. On July 18, 2017, staff contacted Mr. Tanielian to discuss the company's request for a payment plan.

Staff recommends the commission accept the following mutually agreed upon payment arrangements to satisfy the \$21,000 penalty:

Due Date	Amount
Aug. 15, 2017	\$2,625
Sept. 15, 2017	\$2,625
Oct. 15, 2017	\$2,625
Nov. 15, 2017	\$2,625
Dec. 15, 2017	\$2,625
Jan. 15, 2018	\$2,625
Feb. 15, 2018	\$2,625
March 15, 2018	\$2,625
<b>Total</b>	<b>\$21,000</b>

Staff also recommends that the commission suspend \$25,000 of the original \$46,000 penalty as initially offered, on the conditions that the company commit no further violations of RCW 19.122 within two years of the date of the final order, and that all company personnel, including ownership and management, attend NUCA training within one year.

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<sup>1</sup> 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.

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Finally, staff recommends that if the company fails to timely pay any installment of the agreed upon payment plan, the entire remaining balance including the suspended portion will become immediately due and payable.

Sincerely,

Sean C. Mayo  
Pipeline Safety Director