

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: D-220062

PENALTY AMOUNT: \$10,000

Investigation # 8488

SERVICE VIA EMAIL

UBI: 602-712-140

Comcast Cable Communications Management
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Philadelphia, PA 19103
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The Washington Utilities and Transportation Commission (Commission) believes that Comcast Cable Communications Management (Comcast) has violated the Revised Code of Washington (RCW) 19.122.030(4)(a) for failing to provide information to an excavator no later than two business days after receipt of the notice unless otherwise agreed by the parties. 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 \$10,000 penalty against you on the following grounds:

On January 27, 2022, the Safety Committee heard the complaint about case 21-015 against Comcast and determined that Comcast violated RCW 19.122.030(4)(a) for failing to provide information to an excavator no later than two business days after receipt of the notice unless otherwise agreed by the parties on two (2) occasions. The Safety Committee recommended that the Commission impose a \$10,000 penalty.

Violations

1. Failing to provide the excavator with information no later than two business days after receipt of the notice unless otherwise agreed by the parties, on May 11, 2021.
2. Failing to provide the excavator with information no later than two business days after receipt of the notice unless otherwise agreed by the parties, on May 13, 2021.

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

Staff conducted an investigation that included reviewing documents and reports submitted by the Safety Committee. These documents identified that on two different occasions Comcast failed to mark the location of its facilities after locate requests were submitted by the Complainant. During the Safety Committee Review Comcast acknowledged that it failed on several levels to meet the requirements of the dig law to complete requested locates within two business days.

Previously, on October 15, 2021, the Commission, consistent with the Safety Committee's recommendation, issued a \$5,000 penalty assessment against Comcast for five violations of 19.122.030(3)(a) that occurred between March 5 and June 23, 2021, and a \$10,000 penalty assessment for two violations of 19.122.030(4)(a) that occurred on May 18 and May 26, 2021. Both penalties remain unpaid.

Staff recommends that the Commission assess a \$10,000 penalty against Comcast; \$5,000 for each of the two (2) violations of RCW 19.122.030(4)(a) for failing to provide information to an excavator no later than two business days after receipt of the notice unless otherwise agreed by the parties.

The Commission agrees with Staff's recommendation and assesses the following:

1. A penalty of \$5,000 for the violation of RCW 19.122.030(4)(a) Failing to provide the excavator with information no later than two business days after receipt of the notice on May 11, 2021.
2. A penalty of \$5,000 for the violation of RCW 19.122.030(4)(a) Failing to provide the excavator with information no later than two business days after receipt of the notice on May 13, 2021

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 either or both of the violations did not occur, you may deny committing the violation(s) and contest the penalty through evidence presented at a hearing or in writing. Or, if there is a reason for the violation(s) 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(s) 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(s) 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 \$10,000 penalty amount due; or
- Request a hearing to contest the occurrence of either or both of the violations; or
- Request mitigation to reduce the amount of the penalty.

Please indicate your selection on the enclosed form and submit it electronically through the Commission's web portal records@utc.wa.gov **within FIFTEEN (15) days** after you receive this Penalty Assessment. If you are unable to use the web portal, you may submit it via email to records@utc.wa.gov. If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, Washington 98504-7250.

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 February 24, 2022.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT D-220062, Investigation #8488

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 violations occurred and enclose \$10,000 in payment of the penalties.

2. **Contest the violation(s).** I believe that one or both of the alleged violations 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 violations, 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.”