

[Service Date March 15, 2010]

March 15, 2010

David Weaver  
15154 65<sup>th</sup> Avenue S  
Unit #909  
Tukwila, WA 98188

Re: In the Matter of the Petition for Rulemaking to Establish Best Management Practices for One-Number Locator Services under RCW 19.122.027, Docket PG-100164

Dear Mr. Weaver:

This letter acknowledges the petition you filed with the Washington Utilities and Transportation Commission (Commission) on January 28, 2010, requesting that the Commission adopt regulations to promote best management practices for one-number locator services under RCW 19.122.027, part of the Pipeline Safety Act of 2000 (Engrossed Second Substitute House Bill 2420, Chapter 191, Laws of 2000). The Commission considers your letter a petition to adopt rules under the process in RCW 34.05.330. Your petition is assigned docket number PG-100164. For the reasons discussed below, the Commission does not believe it has the statutory authority to initiate a rulemaking or adopt rules concerning best management practices for one-number locator services.

RCW 19.122.027(2) provides that “The utilities and transportation commission, in consultation with the Washington utilities coordinating council, shall establish minimum standards and best management practices for one-number locator services.” Interestingly, section 16(2) of the Pipeline Safety Act, before being codified in RCW 19.122.027), provided:

*(2) The utilities and transportation commission, in consultation with the Washington utilities coordinating council, shall establish minimum standards and best management practices for one-number locator services consistent with the recommendations of the governor’s fuel accident prevention and response team issued in December 1999. By December 31, 2000, the commission shall provide*

*its recommendations to the appropriate standing committees of the house of representatives and the senate.*

After the law was enacted, the Commission, in concert with the Washington Utilities Coordinating Council (WUCC), hosted a series of workshops to discuss best management practices. As a foundation for the work, the Commission relied on a 1999 report initiated by the U.S. Department of Transportation's Office of Pipeline Safety (OPS), called "*Common Ground – Study of One-Call Systems and Damage Prevention Best Practices.*" Following the workshops, the Commission prepared and submitted to the state legislature in December 2000 a report titled "Best Practices – Damage Prevention." A copy of the report is enclosed for your review.

Although RCW 19.122 directed the Commission, among other things, to evaluate best management practices, the law does not grant the Commission authority to enforce violations of the chapter. The best management practices do not meet the definition of a "rule" in the Administrative Procedure Act, RCW 34.05.010(16), because the Commission does not have authority to provide oversight to or enforcement of the one-call system. Consequently, the Commission cannot adopt best practices or minimum standards by rule.

The Commission continues to hold periodic workshops to discuss improvements to the Underground Utilities Law. We will present your recommendations to the stakeholders in an upcoming workshop. If you have questions about this letter or the Commission's "Dig Law" workshops, please contact Alan Lundeen, Policy and Damage Prevention Manager, at (360) 664-1118 or [alundeen@utc.wa.gov](mailto:alundeen@utc.wa.gov).

Sincerely,

DAVID W. DANNER  
Executive Director and Secretary

Enclosure