

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

PENALTY ASSESSMENT: D-150571

PENALTY AMOUNT: \$1,000

Roy Murphy  
801 Tipsoo Loop  
Rainier, WA 98576

The Washington Utilities and Transportation Commission (Commission) believes that you have violated Revised Code of Washington (RCW) 19.122.030(1)(a) by failing to request a dig ticket prior to performing excavation. The Commission also believes you have violated RCW 19.122.050 by failing to report damage to a Puget Sound Energy (PSE) buried electric service. RCW 19.122.070(1) states, in part, that violation of any provision of the chapter is subject to a civil penalty of not more than one thousand dollars for an initial violation and not more than five thousand dollars 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 penalty against you in the amount of \$1,000 on the following grounds:

On Dec. 16, 2014, Roy Murphy (Murphy) performed an excavation at 803B Tipsoo Loop S., Rainier, Washington. Prior to beginning work, Murphy failed to request a dig ticket from a one-number locator service. During the excavation, Murphy struck and damaged a Puget Sound Energy (PSE) buried electric service line and failed to report the damage to the National Ticket Management System Washington One Call (One Call), or to PSE, as required under RCW 19.122.053.

PSE received notice of the power outage from an unknown resident on Dec. 16, 2014, at 1:45 p.m., and restored service at 6:17 p.m., on the same day.

On Dec. 17, 2015, Antoinette Shafter filed a complaint with the Safety Committee. The complainant alleged that Murphy excavated the property without the required dig ticket and caused damage to her water line, PSE electric service, and transformer.

The Safety Committee found Murphy violated RCW 19.122.030(1)(a) by failing to obtain the required dig ticket prior to performing an excavation. The Safety Committee also found Murphy violated RCW 19.122.050 by failing to report the damage to a PSE electric service line to One Call or PSE.

The Safety Committee recommended that the Commission assess a \$1,000 penalty for this violation, with a stipulation that the \$800 be deferred if Murphy agrees to National Utility Contractor's Association (NUCA) "Dig Safe" Training within 90 days of this decision. The Safety Committee further recommended the \$800 deferred portion of the penalty become due and payable if Murphy either fails to attend the training or commits further violation of RCW 19.122 within a 12-month period from the date of this penalty assessment

Pursuant to RCW 19.122.150(3), the Commission has considered the Safety Committee's determination and adopts its recommendation. The Commission assesses a penalty of \$1,000. The Commission's ultimate objective; however, is to ensure compliance with the regulations it enforces, and thus the Commission will waive \$800 of the penalty for this first violation on the conditions that (1) Murphy attend "Dig Safe" training, provided through the NUCA, within 90 days of the date of this Penalty Assessment; and (2) Murphy commits no further violations of RCW 19.122 within the next 12 months.

The information the Safety Committee provided to the Commission, if proved at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe the violations 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 a 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 there is a reason for the violation that you think 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 total penalty amount of \$1,000;
- Contest the occurrence of the violation;
- Request mitigation to contest the amount of the penalty; or
- Notify the Commission that you accept the offer to suspend \$800 of the penalty on conditions that Murphy pay the \$200 penalty, due and payable immediately, attend the

“Dig Safe” training provided through NUCA within 90 days of this penalty assessment, submit documentation of that attendance within five days of attendance, and commit no further violations of RCW 19.122 within the next 12 months.

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 August 10, 2015.

GREGORY J. KOPTA  
Director, Administrative Law Division

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**  
PENALTY ASSESSMENT D-150571

**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 \$1,000 in payment of the penalty.

2. **Contest the violation.** I believe that the alleged violation did not occur for the reasons I describe below:

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. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reasons set out below:

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

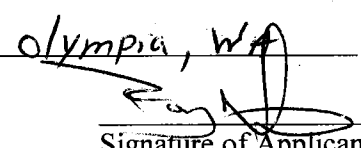
OR  b) I ask for a Commission decision based solely on the information I provide above.

4. **Attend training.** I admit that the violation occurred and accept the Commission's offer to suspend \$800 of the penalty on condition that I, Roy Murphy, pay the \$200 penalty, due and payable immediately, attend the "Dig Safe" training provided through NUCA within 90 days of this penalty assessment, submit documentation of that attendance to the Commission within five (5) days of attending the training, and commit no further violations of RCW 19.122 within the next 12 months.

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: 9/30/2015 [month/day/year], at Olympia, WA [city, state]

Roy Murphy  
Name of Respondent (company) – please print

  
Signature of Applicant

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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."

As per the decision from U.T.C., I was supposed to attend the Dig Safe class 90 days after the Commission made its final decision. I contacted Lynda Holloway twice during the interim. The NUCA Training Site was under construction and wouldn't allow me to schedule the Dig class. I contacted Lynda again and received the phone number for NUCA's advisory person. She never returned my call. I never received a copy of the document saying I had 15 days to respond about taking the class. I had tried to take the class early on and be done with it. Lynda told me I had time because the Commission hadn't even finalized decision. I would like to take the class and then pay the \$200.00 which was my intention from the beginning.

