August 12, 2016

Steven V. King, Executive Director and Secretary
Utilities and Transportation Commission
1300 S. Evergreen park Dr. SW
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Gary Thayer Construction, LLC*
    Commission Staff's Response to Request for Mitigation DG-160166

Dear Mr. King:

On March 30, 2016, Gary Thayer Construction, LLC (Thayer Construction) was issued a $2,000 penalty for two violations of RCW 19.122.030(1)(a), for failing to request a dig ticket prior to performing an excavation. The penalty assessment was returned to the commission on April 25, 2016, and marked "unclaimed" by the post office. On June 20, 2016, staff emailed a copy of the penalty assessment to Thayer Construction and received confirmation from the company that the document was received.

On June 26, 2016, Thayer Construction contacted the commission to request mitigation in the above referenced docket. Thayer Construction admitted the violation occurred but believed that the penalty should be reduced, and asked for a commission decision based upon information they had provided.

Thayer Construction stated they were unaware that they were responsible for requesting locates prior to their excavation activity. They believed the builder they were working with at the time of the violation had called in locates for the entire project. RCW 19.122.030(1)(a) requires that the actual excavator who is performing the work be responsible for requesting locates.

Thayer Construction received a warning letter for their previous excavation activity without a locate. The warning letter included background material for RCW 19.122 and included information on penalty assessments which could be levied in the event another event occurred.

Staff recommends not granting a reduction in the penalty.

Sincerely,

Alan E. Rathbun
Pipeline Safety Director