



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 7, 2016

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: **Commission Staff's Response to Application for Mitigation of Penalties
Docket DG-160247, TTap Construction Services, LLC**

Dear Mr. King:

On May 2, 2016, the Utilities and Transportation Commission (commission) issued a \$1,000 Penalty Assessment in Docket DG-160247, against TTap Construction Services, LLC (TTap Construction) for one violation of RCW 19.122.030(1)(a), for failing to request a dig ticket prior to performing an excavation. RCW 19.122.055(1)(a) states, in part, that any excavator who fails to notify a one-number locator service and causes damage to a hazardous liquid or gas facility is subject to a civil penalty of not more than ten thousand dollars for each violation.

On May 17, 2016, TTap Construction wrote the commission requesting mitigation of the penalty. In its request, TTap Construction stated the violation should be mitigated for the following reasons:

TTap Construction had installed all of the utilities and a new employee started that morning. Everything was discussed as the gas line was energized on July 24, 2015. Because TTap Construction had installed utilities at that location prior, they knew the gas line was there and thought the risk of hitting the gas line was low. A new employee started the day of the incident, therefore he was not as familiar with the job site which led to him damaging the pipeline.

Violation: On July 27, 2015, TTap Construction was excavating to install water services in a newly constructed residential neighborhood. While excavating TTap Construction damaged a ½-inch polyethylene gas service owned by Cascade Natural Gas Corporation. TTap Construction knew there was gas in the area and instructed their equipment operator to hand dig. TTap Construction did not request locates prior to excavation. The damage led to five addresses being evacuated.

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July 7, 2016

Page 2

Staff recommends the request for mitigation be denied based on consideration of the following factors:

1. **Whether the company demonstrates that the facts considered by the Commission underlying the assessment were incorrect or do not support the penalty assessed.**
TTap Construction did not demonstrate that the Commission's assessment was incorrect. The information provided in TTap Construction's mitigation request is the same information that was provided during the investigation and does not relieve them of their duty to obtain underground utility locates prior to excavation.
2. **Whether the company demonstrates that mitigating information or factors exist that the Commission may not have considered in setting the assessed penalty amount.**
TTap Construction did not present any new information that would have changed the assessed penalty amount. The company was aware of the gas line and should know the risks when working near other utilities. Companies that dig without first obtaining an underground utility locate are putting their employees, the public and the facility operator's employees at risk. Underground utility locates could have kept this incident from occurring.
3. **Whether the company explains other circumstances that convince the Commission that a lesser penalty will be equally effective in ensuring compliance.**
TTap Construction did not explain any circumstances to say that a lesser penalty will be equally effective in ensuring compliance. Staff considered the need for a compliance action along with the needs of the company when setting the penalty amount. Given the size of the company, the severity of the violation, the company's compliance history and TTap Construction's reasoning for not requesting utility locates, a \$1,000 penalty was determined to be fair and necessary for the first time violation.

If you have any questions regarding this recommendation, please contact Derek Norwood at (360) 664-1296, or dnorwood@utc.wa.gov.

Sincerely,



Alan E. Rathbun
Pipeline Safety Director