



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

Sept. 27, 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: *Washington Utilities and Transportation Commission v. Nate's Plumbing, Inc.*
Commission Staff's Response to Request for Hearing.
Docket D-160907

Dear Mr. King:

On Aug. 12, 2016, the Utilities and Transportation Commission (commission) issued a \$1,000 Penalty Assessment in Docket D-160907, against Nate's Plumbing, Inc. (Nate's Plumbing or Company). The penalty was for one violation of RCW 19.122.030(1)(a), for failing to obtain a valid locate prior to performing an excavation.

On August 31, 2016, the commission received a letter from an attorney representing Nate's Plumbing requesting a hearing and contesting that the violation occurred. In the letter, Nate's Plumbing states that they were working as a sub-contractor for Waterways Plumbing at the time of excavation and that Waterways had already obtained a locate ticket for the job.

RCW 19.122.030 (1)(a), states it is the actual excavator's responsibility to notify all facility operators through a one-number locator service and obtain a valid locate ticket prior to performing any excavation. Under RCW 19.122.020(10), the term excavator is defined as any person who engages directly in excavation. Nate's Plumbing's stated argument that they were working as a sub-contractor of another company, who has already requested locates, does not relieve them of their obligation to submit their own locate request. The law does not allow for excavators to work off of another companies locate requests.

Staff does not support the Company's request for hearing because they did not provide any new information to support their claim that they were excavating with a valid locate ticket which they requested. Staff was aware of the fact that Nate's Plumbing believed they were in compliance because the contractor they were working for had requested and obtained a locate ticket. Staff is not persuaded by this argument because on July 10, 2013, Nate's Plumbing was reported to have damaged a natural gas line without requesting a locate. As a result of this incident, on Oct. 9,

2013, Nate's Plumbing was sent a letter by staff which provided information on Washington's dig law and applicable penalties for failing to request a utility locate prior to excavating.

Staff also does not support mitigating the penalty amount for two reasons. First, Nate's Plumbing was aware of the rules and applicable penalties for excavating without a valid locate ticket from the letter staff sent to them on Oct. 9, 2013. Second, in a telephone conversation with Company owner Nate Kysar on Aug., 22, 2016, he became very angry and confrontational towards staff and made several statements that were very unprofessional. Mr. Kysar was extremely angry about being penalized and felt that the commission was targeting him and not doing its job properly. Staff was forced to terminate this call prematurely because of Mr. Kysar's continuing confrontational behavior regarding this incident.

Staff recommends that the commission deny Nate's Plumbing's hearing request and enforce the full \$1,000 penalty amount.

Sincerely,

Alan E. Rathbun
Pipeline Safety Director