

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT DG-200433, Investigation # 8179

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 \$5,000 in payment of the penalty.

2. **Contest the violation.** I believe that the violation did not occur for the reasons I describe below (if you do not include reasons supporting your contest here, your request will be denied):

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. **Request mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reasons set out below (if you do not include reasons supporting your application here, your request will be denied):

See Attached

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.

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: 9/2/2020 [Month/Day/Year], at Sumner, WA [City, State]

Robert Vertuh
Name of Respondent (Company) – please print

Robert Vertuh
Signature of Applicant

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.”

Service Date: August 19, 2020

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: DG-200433

PENALTY AMOUNT: \$5,000

Investigation # 8179

UBI: 603-222-558

Phone: (206) 418-4270

Infrasource Services, LLC
14103 Steward Rd.
Sumner, WA 98390
melissa.lail@infrasourceinc.com

The Washington Utilities and Transportation Commission (Commission) believes that Infrasource Services, LLC, (Infrasource or Company) has violated Revised Code of Washington (RCW) 19.122.055 by failing to request a dig ticket prior to excavation and subsequently damaging an underground natural gas facility. RCW 19.122.055 states, in part, that any excavator who fails to notify a one-number locator service no less than two full business days before excavating and causes damage to a hazardous liquid or gas facility is subject to a civil penalty of not more than \$10,000 for each violation.

Commission staff (Staff) conducted an investigation that included reviewing damage reports submitted by Puget Sound Energy (PSE) that identified a natural gas damage event involving Infrasource. Accordingly, the Commission hereby notifies you that it is assessing a penalty of \$5,000 against you on the following grounds:

On October 9, 2018, the Commission assessed a \$3,500 penalty against Infrasource for two violations of RCW 19.122 that occurred because the Company failed to submit a request to locate underground utilities before excavating on April 23, 2018, and April 25, 2018.

On November 25, 2019, Infrasource was excavating at 2420 4th Ave. E, Olympia, Washington. While installing a guard post, Infrasource workers struck and damaged an underground Puget Sound Energy (PSE) gas facility. The Damage Information Reporting Tool report submitted by PSE on January 2, 2020, indicated that the Company was excavating without a valid request to locate underground utilities.

Staff recommends the Commission assess a \$5,000 penalty against Infrasource for one violation of RCW 19.122.055 for failing to provide the required notice to a one-number locator service before excavating and causing damage to an underground natural gas facility for the violation that occurred on November 25, 2019.

The Commission agrees with Staff's recommendation and assesses a penalty of \$5,000.

These facts, if not contested or if proved at a hearing and not rebutted or explained, are sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe the violation did not occur, you may deny committing the violation and contest the penalty through evidence presented at a hearing or in writing. Or, if there is a reason for the violation that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of the 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 to contest the violation or for mitigation of the penalty must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. *See* RCW 81.04.405.

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 their decision.

You must act within 15 days after receiving this notice to do one of the following:

- Pay the \$5,000 penalty amount due; or
- Request a hearing to contest the occurrence of the violation; or
- Request mitigation to reduce the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, P.O. 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 Lacey, Washington, and effective August 19, 2020.

/s/ Rayne Pearson
RAYNE PEARSON
Director, Administrative Law Division



Date: 8/31/2020

RE: Penalty Assessment: DG-200433 Response

To: Rayne Pearson

InfraSource Services, LLC ("InfraSource") is in receipt of your citation dated August 19, 2020 and is requesting mitigation of the assessed fine (WAC 480-07-915(3)(c)), or in the alternative suspension of the assessed fine subject to conditions (WAC 480-07-915 (3)(d)). Initially we would like to point out that we were not contacted with respect to the Commission Staff's investigation of the alleged complaint and formally protest the fact that we were denied an opportunity to present additional evidence from our internal investigation. Our understanding is that in these investigations the parties are permitted the opportunity to present evidence relating to the complaint before the Commission Staff decides. We would like to challenge the fine amount levied against InfraSource for the alleged violation and seek mitigation based upon the following facts and circumstances.

In the citation documents, it is alleged that InfraSource crews performed excavation without obtaining a dig ticket. Attached hereto as Exhibit 1 is dig ticket 19413282 called in by InfraSource on 9/18/19 and photographs of the marks subsequently placed on the ground by the locating company. Unfortunately, the type of work for which this locate call was made is the type of work that InfraSource performs on a fill in basis, meaning that it is not tied to a particular schedule but rather is used to fill a crew's schedule when work load varies. What appears to have happened in this particular instance is that the crew assigned to perform the protective bollard installation received the work notification including the information that a locate ticket had been obtained, but the fact that the locate ticket had passed the 45 day mark was missed.

When the crew mobilized to the site, the locate marks were visible on the ground, and the crew began its work of hand digging the bollard footings. Upon hand digging the second bollard post hole, the crew struck a PE natural gas service line. As seen in attached Exhibit 2 the crew used a "hit kit" to identify the damage and the locate marks, still operating under the belief that the locate marks were valid (meaning within the appropriate date time frame). Those pictures show that the locate marks were present. It was not until InfraSource's internal investigation of the PE natural gas service line damage was completed that it was discovered that the crew had been digging under an expired locate ticket.

InfraSource has a strong policy prohibiting excavation without a valid dig ticket, and there is no evidence to suggest that InfraSource performed excavation without obtaining a dig ticket (understanding the ticket in this case had



expired). Our crews often mobilize to jobs and subsequently are pulled off due to incomplete or inaccurate locates. We would also point out that both 2018 incidents, while paid under protest, were cases where InfraSource crews mistakenly performed work under expired dig tickets as was the case in the recent incident. In 2018 and 2019, InfraSource called in 32,505 dig tickets. These three instances where InfraSource dug on expired dig tickets represent .009% of all the dig tickets called in by InfraSource in that time. It would be untruthful and unfair to allege that InfraSource has performed excavations without obtaining dig tickets.

Given the foregoing this incident was not the result of willful or negligent neglect for the dictates of RCW 19.122.030 but rather an honest mistake. The damage caused by the hand digging was not caused by InfraSource's failure to obtain locates in the first instance. InfraSource is aware of its obligation under the law and our membership in the Golden Shovel program is evidence of our commitment to following the law.

InfraSource requests that this fine be reduced or be held in abeyance given some reasonable conditions by the Commission. InfraSource remains committed to following industry best practices for locating underground utilities and safe excavation. Our record as a company proves this, and it is our continuing goal to work with the Commission, and our industry partners and customers to furthering excavation safety. If there are any questions, or should the Commission wish additional direct testimony please feel free to contact me directly.

Regards,

A handwritten signature in black ink, appearing to read "Robert Veitch".

Robert Veitch, COO

rveitch@infrasourceinc.com

Office: (253) 863-0484

Mobile: (253) 606-4299

Exhibit 1

Butler, Chris

From: waitic@occinc.com
Sent: Thursday, August 20, 2020 2:10 PM
To: Scott, Celina
Subject: Ticket-19413282

[EXTERNAL]

Washington One Call

Ticket No: 19413282 2 FULL BUSINESS DAYS
Original Call Date: 09/18/19 01:52 pm
Work to Begin Date: 09/21/19 12:00 am

Caller Information

Company Name: INFRA SOURCE **Best Time:**
Contact Name: ELAINA LONG **Phone:** (253)617-6021
Alt. Contact: **Phone:**
Fax Phone:

Email Address: ELAINA.LONG@PSE.COM

Dig Site Information

Type of Work: REPLACE GAS SERVICE
Work Being Done For: PSE

Dig Site Location

State: WA **County:** THURSTON
Place: OLYMPIA
Address: 2420
Street: 4TH AVE E
Intersecting Street: CHAMBERS ST NE

Location of Work:

ADDRESS IS APPROX 140FT EAST OF THE ABOVE INTERSECTION ON THE NORTH SIDE OF 4TH AVE E. MARK ENTIRE PROPERTY OUT TO AND INCLUDING BOTH SIDES OF 4TH AVE E. AREA TO BE LOCATED HAS BEEN MARKED IN WHITE. PLEASE PROVIDE WATER/SEWER AS-BUILTS FOR ALL UNLOCATEABLE LINES

Remarks:

AREA MARKED IN WHITE-JOB#109124319

Caller Twp: **Rng:** **Sect-Qtr:**
Map Twp: 18N **Rng:** 2W **Sect-Qtr:** 52-SE-NE
Map Twp: 18N **Rng:** 1W **Sect-Qtr:** 18-SW
Map Coord NW Lat: 47.0464442 **Lon:** -122.8672232 **SE Lat:** 47.0459860 **Lon:** -122.8669013

MEMBERS NOTIFIED:



19413282.0 Timestamp: 9/20/2019 3:30:02 PM



19413282.0 Timestamp: 9/20/2019 3:30:00 PM

Exhibit 2





D
A
M
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G
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M
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K



EXCAVATOR OF THE MONTH

August 2020

The Douglas County Utility Coordinating Council

Does Herably Recognize

InfraSource

For Their Outstanding Dedication To
The Protection Of Underground Facilities

