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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

NC 63

PUBLIC UTILITY COMMISSION OF )  
OREGON, )  
 )  
Complainant, )  
 )  
v. )  
 )  
EDWARD J. OWNBEY, dba MR. ED's )  
BACKHOE SERVICE, )  
 )  
Defendant. )

ERRATA ORDER

DISPOSITION: ORDER NO. 03-159 RESCINDED;  
STIPULATION ADOPTED

On December 11, 2002, the Public Utility Commission of Oregon (Commission) filed a complaint against Defendant. The complaint charged Defendant with one violation of law and requested a penalty of \$1,000. On December 20, 2002, a copy of the complaint was served. Defendant failed to file an answer or otherwise plead or appear within the 20 days after service of the complaint and on March 18, 2003, the Commission entered Order No. 03-159 and assessed monetary penalties against Defendant.

On March 26, 2003, Defendant contacted the Commission. The Commission treated this communication as an oral request for reconsideration pursuant to ORS 756.561 and OAR 860-014-0095. On April 7, 2003, Administrative Specialist Cheryl Walker sent a letter to Defendant, stating, in part, as follows:

Thank you for speaking with me on March 26, 2003. After some investigation, I found out that the Department of Justice (DOJ) timely received the Stipulation regarding the above-captioned matter. Unfortunately, the stipulation was lost during transit from their office to the Administrative Hearings Division at the Public Utility Commission.

In order to correct this situation, I am enclosing an original Stipulation, dated December 11, 2002, with DOJ's original signature on it. I kindly ask that you please sign this Stipulation and return it to me at your earliest convenience for further processing.

On April 14, 2003, the parties to this proceeding entered into a stipulation, which is attached as Appendix A. Defendant admits committing the violation alleged in the complaint. The stipulation is adopted.

From the foregoing, it is concluded that no hearing is required. Under the terms of the stipulation, the allegations of the complaint are true, and Defendant has violated Oregon Administrative Rule(s) as alleged. Pursuant to the provisions of ORS 757.993, penalties should be assessed against Defendant under the terms and conditions of the stipulation. Under the circumstances, Order No. 03-159 should be rescinded pursuant to OAR 860-014-0095(6) and as authorized by statute, including ORS 756.561(3).

Defendant has completed a training session on Oregon excavation laws with the Oregon Utility Notification Center Speakers Bureau, as specified in Paragraph 4B. of the Stipulation.

**ORDER**

IT IS ORDERED that:

1. Civil monetary penalties shall be assessed against Defendant in the amount of \$1,000 for one violation of law.
2. Payment of the penalties (\$1,000) shall be suspended, unless Defendant has violated, within one year of the date of this order, any rules administered by the Oregon Utility Notification Center.
3. Order No. 03-159 is rescinded.

Made, entered, and effective \_\_\_\_\_.

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**Roy Hemmingway**  
Chairman

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**Lee Beyer**  
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to ORS 756.580.

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EDWARD J. OWNBEY, dba MR. ED'S  
BACKHOE SERVICE,

Defendant.

STIPULATION FOR ENTRY OF FINAL ORDER

The Public Utility Commission of Oregon, appearing by and through Paul A. Graham,  
Assistant Attorney General, and Edward J. Ownbey, the defendant herein, hereby stipulate as  
follows:

1.

A Complaint in this case is pending before the Commission charging the defendant with  
one violation of law, as set out in the attached Complaint on file herein.

2.

Both parties to this proceeding are willing to forego further processing of that Complaint  
and further are willing to resolve this matter on the basis of this stipulation.

3.

The defendant admits that the violation was committed as alleged in the Complaint and is  
willing for the Commission to enter an order finding that the violation was committed as alleged  
in the Complaint.

4.

The parties further agree that the Commission may enter an order assessing civil  
monetary penalties against the defendant in the amount of \$1,000 under the following terms and  
conditions:

- 1 A. \$1,000 shall be permanently suspended and no further penalties shall be imposed for the
- 2 violation alleged in the Complaint unless defendant fails to comply with all of the rules
- 3 adopted by the Oregon Utility Notification Center (OUNC) under ORS 757.552 for a one
- 4 year period following date of the Commission’s entry of a final order.
- 5 B. Within 30 days following entry of the Commission’s final order, defendant shall contact
- 6 the OUNC Speakers Bureau and attend a training session on Oregon excavation laws.
- 7 C. In the event that complainant contends that the defendant has not complied with all
- 8 OUNC rules for that one year period, complainant may reopen this proceeding and
- 9 petition for imposition of all or a portion of the suspended penalties. In such case
- 10 defendant shall be entitled to a hearing and to be notified of the basis upon which
- 11 complainant contends that compliance has not occurred.

12 5.

13 This stipulation is conditioned upon final approval of its terms by the Commission. If the  
14 stipulation is not accepted in its entirety, it shall be deemed withdrawn.

15

16 DATED this \_\_\_\_ day of \_\_\_\_\_, 2002.

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\_\_\_\_\_  
 Paul A. Graham, OSB #77190  
 Assistant Attorney General  
 Of Attorneys for PUC Staff

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21 DATED this \_\_\_\_ day of \_\_\_\_\_, 2002.

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\_\_\_\_\_  
 Representative for Defendant

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