



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

October 7, 2016

William R. Halberg, President
Prairie Electric, Inc.
6000 NE 88th St.
Vancouver, WA 98665

Pacific Registered Agents, Inc. – Registered Agent
942 Windemere Dr. NW
Salem, OR 97304

Re: Violation of Oregon Utility Notification Center Rules
DOJ File No. 860501-GB0510-16/Docket No. NC 355

**PLEASE READ ALL DOCUMENTS CAREFULLY –
DIRECT ALL CORRESPONDENCE TO THE PUBLIC UTILITY COMMISSION OF OREGON**

On July 27, 2016, a representative from your company met with the Oregon Utility Notification Center (OUNC) Enforcement Committee to discuss an alleged rule violation. At that meeting, an agreement was reached regarding penalties for the violation.

Enclosed are two sets of documents that contain a Complaint and a Stipulation. The Complaint serves as a formal notice to you of the violation you were charged with and requires that you Answer the allegation. Because you already reached an agreement with the OUNC Committee, you do not need to submit an Answer. Instead, you need only sign and return the enclosed Stipulation in order to answer the Complaint. If you had not reached an agreement with the OUNC Committee, filing an Answer would be your opportunity to admit or deny the allegation and, if denied, to ask for a formal hearing.

The Stipulation sets forth the terms and conditions of the agreement you reached with the OUNC Committee. To finalize the settlement, **you must sign the original Stipulation and mail it within 20 days of the date of this letter to:**

**Public Utility Commission of Oregon
Administrative Hearings Division
201 High St. SE, Ste. 100
PO Box 1088
Salem OR 97308-1088**

Prairie Electric, Inc.
Pacific Registered Agents, Inc. – Registered Agent
October 7, 2016
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You do not need to make payment, if any is due, until the Commission has approved the Stipulation. The Commission should issue an order adopting the Stipulation within 30 days of its receipt. Please retain the extra copy of the Stipulation for your files.

If for some reason you no longer agree to the terms of the Stipulation, you **MUST FILE AN ANSWER TO THE COMPLAINT**, admitting or denying the allegation.

If there is a discrepancy between the formal Stipulation and the agreement reached at the meeting that causes you concern, please contact Kevin Hennessy at (503) 378-6115.

Sincerely,



Johanna M. Riemenschneider
Senior Assistant Attorney General
Business Activities Section

JMR:mvg/#7593794
Enclosures

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 355

PUBLIC UTILITY COMMISSION OF OREGON,

Complainant,

v.

PRAIRIE ELECTRIC, INC.,
(A Washington Corporation)

Defendant.

COMPLAINT

1.

This proceeding is initiated by the Public Utility Commission of Oregon (hereinafter “Commission”) to determine whether civil monetary penalties should be assessed as provided in ORS 757.993. The Commission maintains its offices at:

201 High Street SE, Ste. 100, P.O. Box 1088, Salem, Oregon, 97308-1088.

2.

At all times herein relevant, Defendant was doing business in this state.

3.

Under ORS 757.993, the Commission has discretion to seek penalties for violations of rules adopted by the Oregon Utility Notification Center (OUNC).

4.

Under ORS 757.552, OUNC has adopted rules that prescribe requirements for notification to OUNC of excavation activity and marking of underground facilities for the purpose of preventing damage to such facilities. “Excavation” and “reasonable accuracy” and other relevant definitions are contained in OAR 952-001-0010.

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5.

OUNC adopted OAR 952-001-0090, which was in effect at all times herein relevant. The rule provides in relevant part:

- (2) Once underground facilities have been marked, the excavator must:
 - (c) Employ hand tools or other such non-invasive methods to determine the exact location of the underground facility when excavation is to be made within the reasonable accuracy zone.

6.

On or about April 18, 2016, Defendant violated OAR 952-001-0090(2) in that Defendant failed to employ hand tools or other such noninvasive methods to determine the exact location of underground facilities while performing an excavation near SE Yamhill and SE 82nd Avenue in Portland, Oregon.

7.

ORS 757.993 provides, in relevant part, that:

“* * * every person who violates or who procures, aids or abets in the violation of any rule of the Oregon Utility Notification Center shall incur a penalty of not more than \$1,000 for the first violation and not more than \$5,000 for each subsequent violation.”

8.

Defendant has not violated OUNC rules in the past.

9.

WHEREFORE, the Commission directs Defendant to file a verified answer to this Complaint within twenty (20) days from the date this Complaint is mailed to Defendant. If no verified answer or other written appearance raising a question of fact or law is filed with the Commission at its office in Salem, Oregon, within the 20-day period, the


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1 allegations of the Complaint are deemed admitted, and a penalty will be imposed in the
2 amount of \$1,000 for each violation alleged, for a total of \$1,000.

3
4 DATED this 7th day of October 2016.

5 Respectfully submitted,

6 ELLEN F. ROSENBLUM
7 Attorney General

8 
9 Johanna M. Riemenschneider, #990083
10 Senior Assistant Attorney General
11 Of Attorneys for the Public Utility Commission
12 of Oregon
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1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 NC 355

4 PUBLIC UTILITY COMMISSION OF
OREGON,

5 Complainant,

6 v.

7 PRAIRIE ELECTRIC, INC.,
8 (A Washington Corporation)

9 Defendant.

STIPULATION FOR ENTRY
OF FINAL ORDER

10
11 The Public Utility Commission of Oregon, appearing by and through Johanna M.
12 Riemenschneider, Assistant Attorney General, and Prairie Electric, Inc., the Defendant herein,
13 hereby stipulate as follows:

14 1.

15 A Complaint in this case is pending before the Commission charging the Defendant with
16 one violation of law, OAR 952-001-0090(2).

17 2.

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

20 3.

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

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1 4.

2 The parties further agree that the Commission may enter an order assessing a civil
3 monetary penalty against Defendant in the amount of \$1,000 under the following terms and
4 conditions:

- 5 A. Defendant must sign and return this Stipulation within 20 days of the date it was
6 served upon (mailed to) Defendant.
- 7 B. \$200 becomes due and payable on or before the 30th day following the Commission's
8 entry of its order in this case.
- 9 C. Payment must be by **cashier's check** or **money order** made out to the **Public Utility**
10 **Commission of Oregon**, and the **memo line of the money order must state the "NC**
11 **355" docket number** in the caption of this Stipulation.
- 12 D. Payment of the balance of the penalty (\$800) will be suspended and it will be waived
13 with no further penalties will be imposed for the violation alleged in the Complaint
14 unless Defendant fails to comply with all of the terms of this Stipulation and all of the
15 rules adopted by the Oregon Utility Notification Center (OUNC) under ORS 757.552
16 for a one-year period following the date of the Commission's entry of an order.
- 17 E. Defendant must contact the OUNC Speakers Bureau online at
18 www.digsafelyoregon.com or by calling **(503) 232-1987** to arrange for and ensure
19 that all of defendant's employees that engage in excavation activity as a part of their
20 job duties, including but not limited to notifying the Oregon Utility Notification
21 Center of proposed excavations, attend a training session on Oregon excavation laws
22 within 45 days following the entry of the Commission's order.
- 23 F. Defendant must contact Scott Gallegos at NW Natural (NWN) by email at
24 smg@nwnatural.com or by calling **(503) 226-4211**, and arrange for and ensure that
25 all of defendant's employees that engage in excavation activity as a part of their job
26

1 duties attend an operator safety presentation provided by NWN within 45 days
2 following the entry of a final order.

3 G. Defendant must take a blank copy of the Training Verification form attached to this
4 Stipulation as Attachment 1 to all required trainings scheduled under paragraphs 4.E.
5 and 4.F. above. Defendant must ensure that all of its employees attending a required
6 training sign a Training Verification form to verify attendance. A representative of
7 the organization providing the training (Instructor) must sign the Training
8 Verification Form to verify that each person listed on the form completed the training.
9 Defendant must return all completed training verification forms to Complainant at the
10 address on the Form within 10 days of the date of the last training session and in no
11 event later than 55 days following the date of the Commission's entry of an order in
12 this docket.

13 H. In the event that Complainant contends that Defendant has not complied with all of
14 the terms of this Stipulation and all OUNC rules for the one-year period, Complainant
15 may reopen this proceeding and petition for imposition of all or a portion of the
16 suspended penalty. In such case, Defendant is entitled to a hearing and to be notified
17 of the basis upon which Complainant contends that compliance has not occurred.

18 I. Complainant's failure to enforce any provision of this Stipulation, or decision to
19 waive any violation or nonperformance of this Stipulation in one instance, will not
20 constitute a waiver by the Complainant of that provision, any other provision, or any
21 other violation or nonperformance in another instance.

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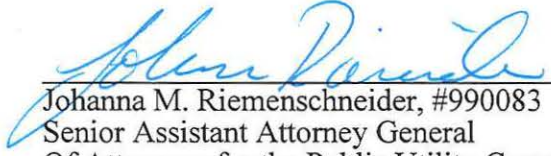
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5.

This Stipulation is conditioned upon final approval of its terms by the Commission. If the Stipulation is not accepted in its entirety, it is deemed withdrawn.

DATED this 7th day of October 2016.



Johanna M. Riemenschneider, #990083
Senior Assistant Attorney General
Of Attorneys for the Public Utility Commission
of Oregon

DATED this _____ day of October 2016.

Defendant / Representative (signature)

(Print Name)



Oregon Public Utility Commission Training Verification

Docket NC 355

Instructions:

- Defendant:
 - Schedule training(s) outlined in Stipulation
 - Complete the Training Verification form on the day of the training
 - All attendees must print and sign their name on the Training Verification form
 - Have instructor date and sign the Training Verification form upon completion of training
 - Defendant **must** mail completed Training Verification form to the address below (*retain a copy for your records*)
- Instructor:
 - Date and sign the Training Verification form upon completion of training

Type of Training: (*To be filled out by the instructor*)

- OUNC – Oregon Excavation Laws
 Operator Safety Presentation
 Other:

Instructor Print Name: _____

Instructor Signature: _____ Date: _____

Name (Printed)	Name (Signed)

Mail Completed form to:

Public Utility Commission of Oregon
Administrative Hearings Division
 201 High St. SE, Ste. 100
 PO Box 1088
 Salem OR 97308-1088