

DEPARTMENT OF JUSTICE GENERAL COUNSEL DIVISION

October 13, 2017

Stuart Cohen, Registered Agent WCI Cable, Inc. 1300 SW Fifth Avenue, Suite 3500 Portland, OR 97201

Anand Vadapalli, President WCI Cable, Inc. 1300 SW 5<sup>th</sup> Avenue, Suite 3500 Portland, OR 97201

Lisa Phillips, Sr. Manager Regulatory Affairs WCI Cable, Inc. 600 Telephone Avenue Anchorage, AK 99503

Re: Violation of Oregon Utility Notification Center Rules DOJ File No. 860140-GB0521-17/ Docket No. NC 373

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

On September 7, 2017, a representative from your company participated in a telephone conference with the 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 Enforcement 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 Enforcement 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 Enforcement Committee. To finalize the settlement, you must sign the original Stipulation and mail it within 20 days of the date of this letter to:

WCI Cable, Inc. October 13, 2017 Page 2

## Public Utility Commission of Oregon Administrative Hearings Division 201 High Street SE, Suite 100 Salem OR 97308-1088

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 within 20 days, or a default order may be issued.

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

Enclosures JMR/pjr/#8490484

1	BEFORE THE PUBLIC UTILITY COMMISSION		
2	OF OREGON		
3	NC 373		
4			
5	OREGON,		
6	Complainant,	COMPLAINT	
7	V.		
8	WCI CABLE, INC.,		
9	Defendant.	·	
10		1.	
11	This proceeding is initiated by the Public Utility Commission of Oregon (hereinafter		
12	"Commission") to determine whether civil monetary penalties should be assessed as provided in		
13	ORS 757.993. The Commission maintains its offices at:		
14	201 High Street SE, Suite 100, Salem, Oregon 97301.		
15		2.	
16	At all times herein relevant, the Defendant was doing business in this state.		
17	- 3.		
18	Under ORS 757.993, the Commission has discretion to seek penalties for violations of		
19	rules adopted by the Oregon Utility Notification Center (OUNC).		
20		4.	
21	Under ORS 757.552, OUNC has adopte	d rules that prescribe requirements for	
22	notification to OUNC of excavation activity and marking of underground facilities for the		
23	purpose of preventing damage to such facilities. "Excavation" and other relevant definitions are		
24	contained in OAR 952-001-0010.		
25	///		
26	///		
Page 3 - COMPLAINT (NC 373) JMR/pjr/#8490484 Department of Justice		artment of Justice	

1	5.		
2	OUNC adopted OAR 952-001-0080 which was in effect at all times herein relevant. The		
3	rule provides in relevant part:		
4	Within 10 business days after a designer notifies the Oregon Utility Notification Center of a proposed project, the operator of the underground facilities must: (1) Mark with reasonable accuracy all of its locatable underground facilities within the area of proposed excavation. All marks must indicate the name, initials or logo of the operator of the underground facilities, and the width of the facility if it is greater than 2 inches;		
5 6 7			
8 9 10	(2) Provide the excavator the best description available to the operator of the unlocatable underground facilities in the area of the proposed excavation including as-constructed drawings, or other facility maps that are maintained by the facility operator; or		
11 12	(3) Contact the person requesting design information and agree on a time, prior to the beginning of the proposed project, for exchange of the information required under section (1) or section (2) of this rule.		
13			
14	On or about May 16, 2017, Defendant violated OAR 952-001-0080 in that the Defendant		
15	failed to respond to a request for location of underground facilities at or near West Union Road,		
16	Beaverton, Oregon within ten (10) business days.		
17	7.		
18	ORS 757.993 provides, in relevant part, that:		
19	"* * * every person who violates or who procures, aids or abets in the violation of		
20	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		
21	subsequent violation."		
22	8.		
23	WHEREFORE, the Commission directs the Defendant to file a verified answer to this		
24	complaint within twenty (20) days from the date this complaint is mailed to the Defendant. If no		
25	verified answer or other written appearance raising a question of fact or law is filed with the		
26	Commission at its office in Salem, Oregon, within the 20-day period, the allegations of the		
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1	complaint shall	be deemed admitted	, and a penalt	v shall be imp	posed in the amoun	t of \$1,000 for
-	· · · · · · · · · · · · · · · · · · ·		, and a period	J DANGER OF ALLEP	VUVVVV AAA VAAV VAAAV VAA	

2 each violation alleged, for a total of \$1,000.

3	DATED this <u>/3</u> day of October 2017	
4		Respectfully submitted,
5		ELLEN F. ROSENBLUM
6		Attorney General
7		11 D 1
8		Johanna M. Riemenschneider, #990083
9		Senior Assistant Attorney General Of Attorneys for the Public Utility Commission
10		of Oregon
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## JMR/pjr/#8490484

1	<b>BEFORE THE PUBLIC UTILITY COMMISSION</b>	
2	<b>OF OREGON</b>	
3	NC 373	
4	PUBLIC UTILITY COMMISSION OF OREGON,	
5 6	Complainant,	STIPULATION FOR ENTRY OF FINAL ORDER
7	v.	
8	WCI CABLE, INC.,	
9	Defendant.	
10	The Public Utility Commission of Ore	yon appearing by and through Johanna M
11 12	The Public Utility Commission of Oregon, appearing by and through Johanna M. Riemenschneider, Assistant Attorney General, and WCI Cable, Inc., the Defendant herein,	
12	hereby stipulate as follows:	
15		1.
14	A Complaint in this case is pending be	fore the Commission charging the Defendant with
15	one violation of law, OAR 952-001-0080.	
10		2.
18	Both parties to this proceeding are will	ing to forego further processing of that Complaint
10	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.	
24	111	
25	///	
26	///	
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2 The parties further agree that the Commission may enter an order assessing civil 3 monetary penalties against the Defendant in the amount of \$1,000 under the following terms and 4 conditions: 5 A. Defendant shall sign and return this Stipulation within 20 days of the date it was served 6 upon (mailed to) Defendant. 7 B. Payment of the penalty (\$1,000) is suspended and the penalty shall be waived with no 8 further penalties imposed for the violation alleged in the Complaint unless Defendant 9 fails to comply with all of the terms of this Stipulation and all of the rules adopted by the

4.

- 10 Oregon Utility Notification Center (OUNC) under ORS 757.552 for a one-year period
- 11 following the date of the Commission's entry of an order.
- C. In the event that Complainant contends that Defendant has not complied with all of the
   terms of this Stipulation and all OUNC rules for that one-year period, Complainant may
   reopen this proceeding and petition for imposition of all or a portion of the suspended
   penalties. In such case, Defendant shall be entitled to a notice and hearing on the basis
   upon which Complainant contends that compliance has not occurred.
- D. Complainant's failure to enforce any provision of this Stipulation, or decision to waive
   any violation or nonperformance of this Stipulation in one instance, will not constitute a
   waiver by the Complainant of that provision, any other provision, or any other violation
   of nonperformance in another instance.
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- 26 ///

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1	5.		
2	This Stipulation is conditioned upon final approval of its terms by the Commission. If		
3	the Stipulation is not accepted in its entirety, it shall be deemed withdrawn.		
4	DATED this $13$ day of October 2017.		
5	1 7 -0		
6	Johanna M. Riemenschneider, #990083		
7	Senior Assistant Attorney General Of Attorneys for the Public Utility Commission		
8	of Oregon		
9			
10	DATED this day of October 2017.		
11	6		
12	Representative for Defendant (signature)		
13	(Print name)		
14	(Trint hand)		
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