



**DEPARTMENT OF JUSTICE**  
GENERAL COUNSEL DIVISION

January 8, 2021

Carolyn Walker, Registered Agent  
Portland General Electric Company  
121 SW Salmon Street, #1WTC1301  
Portland, OR 97204

Larry Berkkedah  
Portland General Electric Company  
VP Transmission & Distribution  
121 SW Salmon Street  
Portland, OR 97204

Maria Pope, President  
Portland General Electric Company  
121 SW Salmon Street  
Portland, OR 97204

Re: Violation of Oregon Utility Notification Center Rules  
DOJ File No. 860140-GB0557-20/ Docket No. NC 395

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

On December 3, 2020, a representative from your company participated in a telephone conference with the Public Utility Commission of Oregon's Enforcement Committee to discuss an alleged rule violation. At that meeting, an agreement was reached regarding the alleged rule 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:**

**Public Utility Commission of Oregon  
Administrative Hearings Division  
PO Box 1088  
Salem OR 97308-1088**

Portland General Electric Company  
January 8, 2021  
Page 2

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, 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,

*/s/ Johanna M. Riemenschneider*

Johanna M. Riemenschneider  
Senior Assistant Attorney General  
Business Activities Section

Enclosures  
JMR:pjr/34380920

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 NC 395

4 PUBLIC UTILITY COMMISSION OF  
5 OREGON,

6 Complainant,

7 v.

8 PORTLAND GENERAL ELECTRIC  
9 COMPANY,

10 Defendant.

COMPLAINT

11 1.

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

15 201 High Street SE Ste. 100, P.O. Box 1088, Salem, Oregon, 97308-1088.

16 2.

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

18 3.

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

21 4.

22 Under ORS 757.552, OUNC has adopted rules that prescribe requirements for  
23 notification to OUNC of excavation activity and marking of underground facilities for the  
24 purpose of preventing damage to such facilities. “Excavation”, “operator” and other relevant  
25 definitions are contained in ORS 757.542 and OAR 952-001-0010.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

5.

OUNC adopted OAR 952-001-0070(1), which was in effect at all times herein relevant.

The rule provides in relevant part:

(1) Except as provided in section (2) of this rule, within two full business days following the day an excavator notifies the Oregon Utility Notification Center of a proposed excavation, the operator or its designated agent must:

(a) Mark within 24 inches of the outside lateral dimensions of both sides of all 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;

(b) Provide marks to the excavator of the unlocatable underground facilities in the area of proposed excavation, using the best information available including as-constructed drawings or other facility records that are maintained by the facility operator; or

(c) Notify the excavator that the operator does not have any underground facilities in the area of the proposed excavation. Acceptable notifications must include locate request call back information and if done with AVR (Automated Voice Response) must have a repeat option and a call back number to hear the information again.

6.

On or about October 30, 2019, Defendant violated OAR 952-001-0070(1)(a) in that Defendant failed to mark all of its locatable underground facilities, in the area of a proposed excavation at or near the property adjacent to 19143 NE Laughlin Road in Yamhill, Oregon.

7.

ORS 757.993 provides that:

(1) Except as provided in subsection (2) of this section and in addition to all other penalties provided by law, 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.

On June 18, 2018, the Commission issued Order No. 18-222, in Docket NC 383, imposing a civil penalty for violation of OAR 952-001-0070(1).

1           WHEREFORE, the Commission directs Defendant to file a verified answer to this  
2 Complaint within twenty (20) days from the date this Complaint is mailed to Defendant.  
3 If no verified answer or other written appearance raising a question of fact or law is filed  
4 with the Commission at its office in Salem, Oregon, within the 20-day period, the  
5 allegations of the Complaint are deemed admitted, and civil penalties will be imposed in  
6 the amount of \$5,000.

7

8           DATED this 8<sup>th</sup> day of January 2021.

9

Respectfully submitted,

10

ELLEN F. ROSENBLUM  
Attorney General

11

12

*/s/ Johanna M. Riemenschneider*

13

---

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

14

15

16

17

18

19

20

21

22

23

24

25

26

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 NC 395

4 PUBLIC UTILITY COMMISSION OF  
5 OREGON,

6 Complainant,

7 v.

8 PORTLAND GENERAL ELECTRIC  
9 COMPANY,

10 Defendant.

STIPULATION FOR ENTRY OF  
FINAL ORDER

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

14 1.

15 A Complaint in this case is pending before the Commission charging the Defendant with  
16 a violation of OAR 952-001-0070(1)(a), and proposing a civil penalty of \$5,000.

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

24 ///

25 ///

26 ///

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 \$5,000 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. A \$1,000 civil penalty becomes due and payable on or before the 30<sup>th</sup> day following  
8 the Commission's entry of its order in this docket.
- 9 C. Payment must be by **money order** made out to the **Public Utility Commission of**  
10 **Oregon**, and the memo line of the money order must state the "NC" docket number  
11 for this docket in the caption of this Stipulation.
- 12 D. Payment of the remaining civil penalties (\$4,000) is suspended and will be waived  
13 and 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. On or before the 30<sup>th</sup> day following the Commission's entry of its order in this docket,  
18 Defendant must provide a revised plan or procedure (policy) that identifies the  
19 workflow for locating and marking underground facilities, investigating and  
20 troubleshooting damages to underground facilities. The policy may be consistent  
21 with the policy provided on August 18, 2018 in Docket NC 383, under Commission  
22 Order No. 18-222, but must include, though it is not limited to, the following:  
23 (1) Description of the purpose of the policy and commitment thereof by leadership,  
24 management, and employees;  
25 (2) Identification of the means and systematic process of receiving, recording and  
26 dispatching all Notification information as collected by the OUNC's one-call vendor;

- 1 (3) Identification of the means to ensure Notification management software is  
2 compatible in order to receive all Notification information administered by the  
3 OUNC's one-call vendor;
- 4 (4) Identification of the notifications and types of responses for marking underground  
5 facilities;
- 6 (5) Identification of the tasks assigned to participants by title or position and their  
7 roles and responsibilities in the workflow process;
- 8 (6) Identification of the technology or systems and methods used throughout the  
9 policy that enables the completion of identified tasks; and
- 10 (7) Establish criteria for periodic review of effectiveness and identification of best  
11 practices.

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

18 G. 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.

22 ///

23 ///

24 ///

25 ///

26 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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 8<sup>th</sup> day of January 2021.

*/s/ Johanna M. Riemenschneider*

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

DATED this \_\_\_\_\_ day of January 2021.

\_\_\_\_\_  
Defendant / Representative (signature)

\_\_\_\_\_  
(Print Name)