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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 43

PUBLIC UTILITY COMMISSION OF)
OREGON,)
)
Complainant,)
)
v.)
)
STEVE PILLING, dba STEVE P.)
PILLING EXCAVATION,)
)
Defendant.)

ORDER

DISPOSITION: ORDER NO. 01-1087 RESCINDED;
STIPULATION ADOPTED

On September 21, 2001, 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 October 2, 2001, 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. On December 21, 2001, the Commission entered a default order, Order No. 01-1087, and assessed monetary penalties against Defendant.

The Commission received a returned piece of mail containing a copy of Order No. 01-1087, addressed to defendant, stamped "No Forward Order On File, Unable to Forward, Return to Sender," from the Post Office on January 3, 2002.

Enforcement of Order No. 01-1087 was pursued by Kevin Hennessy, Utility Program of the Commission. In January, 2004, the Defendant contacted and spoke with Mr. Hennessy. Defendant said he did not recall receiving a stipulation to sign and provided the Commission with a new address. The Commission treated this communication as an oral request for reconsideration pursuant to ORS 756.561 and OAR 860-014-0095.

The Defendant filed a Money Order in the amount of \$200 on January 13, 2004.

On January 23, 2004, Administrative Specialist Cheryl Walker sent a letter to Defendant, stating, in part, as follows:

This letter will acknowledge receipt of Money Order #0852204268 in the amount of \$200 from you on January 13, 2004.

Also, it is my understanding from Kevin Hennessy, Utility Division, of the Public Utility Commission of Oregon, per your telephone conversation with him, that you do not have the original Stipulation that I mailed to you on October 2, 2001.

Per your discussion with Mr. Hennessy, I am sending a replacement original Stipulation for your signature. I kindly ask that you please date and sign this Stipulation and return it to me at your earliest convenience for further processing.

On January 28, 2004, the parties to this proceeding entered into a stipulation. The Commission acknowledges payment and adopts the Stipulation entered into by the parties to this proceeding, which is attached as Appendix A. Defendant admits committing the violation alleged in the complaint.

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. 01-1087 should be rescinded pursuant to OAR 860-014-0095(6) and as authorized by statute, including ORS 756.561(3). We further order Defendant to complete the unsatisfied terms of the stipulation by attending a training session on Oregon excavation laws with the Oregon Utility Notification Center Speakers Bureau, as specified in Paragraph 4C. 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. Pursuant to the Stipulation, Defendant has paid the sum of \$200.
2. Defendant must complete the unsatisfied terms of the Stipulation by attending a training session on Oregon excavation laws with the Oregon Utility Notification Center Speakers Bureau, as specified in Paragraph 4C. of the Stipulation.
3. Payment of the balance of the penalties (\$800) shall be suspended, unless Defendant fails to comply with paragraph 2 above or a showing is made that Defendant has violated, within one year of the date of this order, any rules administered by the Oregon Utility Notification Center.

Made, entered, and effective _____.

Lee Beyer
Chairman

John Savage
Commissioner

Ray Baum
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.