

ORDER NO. 16-182

ENTERED MAY 18 2016

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 350

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

MARK LATHAM EXCAVATION, INC.,
(an Oregon corporation) dba LATHAM
EXCAVATION,

Defendant.

ORDER

DISPOSITION: STIPULATION ADOPTED

In this order, the Public Utility Commission of Oregon adopts a stipulation between the Commission Staff and defendant and imposes civil monetary penalties under the terms and conditions of the stipulation.

I. COMPLAINT AND STIPULATION

On April 22, 2016, the Commission filed a complaint against defendant. The complaint charged defendant with one violation of law, OAR 952-001-0090(2), and requested a penalty of \$1,000. On April 22, 2016, a copy of the complaint was served.

On May 2, 2016, the parties in these proceedings entered into a stipulation, which is attached as Appendix A.

Under the terms of the stipulation, defendant:

- (1) Admits committing the alleged violation and agrees that the Commission may enter an order assessing civil monetary penalties;
- (2) Agrees to complete, within 45 days following the entry of a final order, a training session with the Oregon Utility Notification Center Speakers Bureau

- on Oregon excavation laws and with Cascade Natural Gas on operator safety;
and
- (3) To submit a completed Training Verification form(s) for all required trainings to the Commission within 10 days of the date of the last training and no later than 55 days following the entry of this order.

The parties further agree that a portion of the penalties should be suspended, unless defendant fails to comply with any provision of the stipulation or violates any rule adopted by the Oregon Utility Notification Center under ORS 757.552 for a period of one year following the date of the Commission's final order in these proceedings.

II. DISCUSSION

The stipulation is adopted. Under the terms of the stipulation, the allegations of the complaint are true, and defendant has violated the Oregon Administrative Rules as alleged. Under the provisions of ORS 757.993, penalties should be assessed against defendant under the terms and conditions of the stipulation.

III. ORDER

IT IS ORDERED that:

1. The stipulation, attached as Appendix A, is adopted.
2. Civil monetary penalties are assessed against MARK LATHAM EXCAVATION, INC., (an Oregon corporation) dba LATHAM EXCAVATION in the amount of \$1,000 for one violation of law.
3. Defendant must pay the sum of \$200, due and payable within 30 days from the date of service of this order. The Commission acknowledges receipt of the amount of \$200 from defendant on May 5, 2016.
4. Defendant must:
 - (a) Timely complete a training session with the Oregon Utility Notification Center Speakers Bureau. Defendant will contact the OUNC Speakers Bureau to arrange for and have all employees that perform excavation work attend a training session on Oregon excavation laws within 45 days of the entry of this order;
 - (b) Timely complete a training session with Cascade Natural Gas. Defendant will contact Cascade Natural Gas to arrange for and have all employees that perform excavation work attend a training session on operator safety within 45 days of the entry of this order;
and

- (c) File a completed Training Verification form(s) for all required training to the Public Utility Commission of Oregon at the address indicated on the form within 10 days of the date of the last training session and no later than 55 days of the entry of this order.
5. Payment of the balance of the penalties (\$800) will be suspended, unless defendant fails to comply with any term of the stipulation. If the defendant has not met the requirements and time periods set forth in paragraphs 3 and 4 above, the unpaid balance of the amount assessed in paragraph 2 will be due immediately following the expiration of the time periods.

Made, entered, and effective MAY 18 2016



Jason Eisdorfer

Jason Eisdorfer
 Director
 Utility Program

A party may request rehearing or reconsideration of this order under 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 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

NC 350

PUBLIC UTILITY COMMISSION OF OREGON,

Complainant,

v.

MARK LATHAM EXCAVATION, INC., (an Oregon corporation) dba LATHAM EXCAVATION,

Defendant.

STIPULATION FOR ENTRY OF FINAL ORDER

The Public Utility Commission of Oregon, appearing by and through Johanna M. Riemenschneider, Assistant Attorney General, and Mark Latham Excavation, Inc., 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, OAR 952-001-0090(2).

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.

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4.

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

- A. Defendant must sign and return this Stipulation within 20 days of the date it was served upon (mailed to) Defendant.
- B. \$200 becomes due and payable on or before the 30th day following the Commission's entry of its order in this case.
- C. Payment must be by cashier's check or money order made out to the Public Utility Commission of Oregon, and the memo line of the money order must state the "NC 350" docket number in the caption of this Stipulation.
- D. Payment of the balance of the penalty (\$800) will be permanently suspended and no further penalties will be imposed for the violation alleged in the Complaint unless Defendant fails to comply with all of the terms of this Stipulation and all of the rules adopted by the Oregon Utility Notification Center (OUNC) under ORS 757.552 for a one-year period following the date of the Commission's entry of an order.
- E. Defendant must contact the OUNC Speakers Bureau online at www.digsafelyoregon.com or by calling (503) 232-1987 to arrange for a training session on Oregon excavation laws within 45 days following the entry of the Commission's order. All employees of Defendant that perform excavation work must attend a training session.
- F. Defendant must also contact Bill Walker at Cascade Natural Gas (CNG) by email William.Walker@cngc.com or by calling (541) 706-6290 to arrange for and attend an operator safety presentation provided by CNG within 45 days following the entry of the Commission's order. All employees of Defendant that perform excavation work must attend a safety presentation from CNG.

1 G. Defendant must take a blank copy of the Training Verification Form attached to this
2 Stipulation as Attachment 1 to all required trainings under Paragraphs 4.E and 4.F
3 above. Each individual attending training must sign the form to verify attendance. A
4 representative of the organization providing the training (Instructor) must sign the
5 Training Verification Form that the training is complete with respect to the
6 individuals listed on the Training Verification Form for the form to be complete.
7 Defendant shall return all completed Training Verification Forms to Complainant at
8 the address on the Form within 10 days of date of the last training session and in no
9 event no later than 55 days following the date of the Commission's entry of an order
10 in this docket.

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

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

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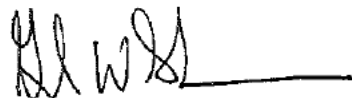
This Stipulation is conditioned upon final approval of its terms by the Commission. If the Stipulation is not accepted in its entirety, it is deemed withdrawn.

DATED this 22 day of April, 2016.



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

DATED this 2ND day of ~~April~~ ^{MAY}, 2016.



Defendant / Representative (signature)

GABE W. SHEERER

(Print Name)

