

ORDER NO. 16 347

ENTERED SEP 13 2016

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 351

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

JR FAULKNER EXCAVATION II, INC.,
(An Oregon corporation),

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 August 5, 2016, the Commission filed a complaint against defendant. The complaint charged defendant with five violations of law, three violations of OAR 952-001-0050(1) and two violations of OAR 952-001-0090(2), and requested a penalty of \$5,000. On August 5, 2016, a copy of the complaint was served.

On August 25, 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 violations 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 JR FAULKNER EXCAVATION II, INC. (An Oregon corporation), in the amount of \$5,000 for five violations of law.
3. Defendant must pay the sum of \$1,000, due and payable within 30 days from the date of service of this order. Payment must be in the form of a money order made out to the **Public Utility Commission of Oregon**, and the memo line of the money order shall state the "NC" docket number in the caption of this order. (Mail payment to: Public Utility Commission of Oregon, PO Box 2153, Salem, OR 97308.)
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 ensure that all of Defendant's employees that engage in excavation activity as a part of their job duties 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 ensure that all of Defendant's employees that engage in excavation activity as a part of their job duties 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 (\$4,000) 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 SEP 13 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 351

PUBLIC UTILITY COMMISSION OF OREGON,

Complainant,

v.

JR FAULKNER EXCAVATION II, INC.,
(An Oregon corporation),

Defendant.

STIPULATION FOR ENTRY OF FINAL ORDER

The Public Utility Commission of Oregon, appearing by and through Johanna M. Riemenschneider, Assistant Attorney General, and JR Faulkner Excavation II, Inc., the Defendant herein, hereby stipulate as follows:

1.

A Complaint in this case is pending before the Commission charging the Defendant with five violations of law, specifically three violations of OAR 952-001-0050(1) and two violations of 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 violations were committed as alleged in the Complaint.

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4.

The parties further agree that the Commission may enter an order assessing civil monetary penalties against Defendant in the amount of \$5,000 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. \$1,000 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 money order made out to the Public Utility Commission of Oregon, and the memo line of the money order must state the "NC" docket number in the caption of this Stipulation.
- D. Payment of the balance of the penalties (\$4,000) are suspended and the suspended penalties will be waived and no further penalties will be imposed for the violations 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 and ensure that all of defendant's employees that engage in excavation activity as a part of their job duties, including but not limited to notifying the Oregon Utility Notification Center of proposed excavations, attend a training session on Oregon excavation laws within 45 days following the entry of the Commission's order.
- F. Defendant must contact Bill Walker at Cascade Natural Gas (CNG) by email William.Walker@cngc.com or by calling (541) 706-6290 and arrange for and ensure that all of defendant's employees that engage in excavation activity as a part of their

1 job duties attend an operator safety presentation provided by CNG 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 that one-year period,
15 Complainant may reopen this proceeding and petition for imposition of all or a
16 portion of the suspended penalties. In such case, Defendant is entitled to a hearing
17 and to be notified of the basis upon which Complainant contends that compliance has
18 not occurred.

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

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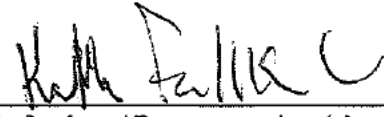
This Stipulation is conditioned upon final approval of its terms by the Commission. If the Stipulation is not accepted in its entirety, it is deemed withdrawn.

DATED this 5th day of August 2016.



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

DATED this 25th day of August 2016.



Defendant / Representative (signature)

Kenneth Faulkner Jr.

(Print Name)

