

ORDER NO. 18 220

ENTERED JUN 18 2018

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 381

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

PORTLAND & WESTERN RAILROAD,
INC.,

Defendant.

ORDER

DISPOSITION: STIPULATION ADOPTED

On May 3, 2018, the Public Utility Commission of Oregon 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 May 3, 2018, a copy of the complaint was served.

On May 25, 2018, the parties in these proceedings entered into a stipulation, which is attached as Appendix A.

Under the terms of the stipulation, defendant admits committing the alleged violation and agrees that the Commission may enter an order assessing civil monetary penalties. Defendant also 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.

The parties further agree that 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.

The stipulation is adopted. 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 as alleged. Under the provisions of ORS 757.993, penalties should be assessed against defendant under the terms and conditions of the stipulation.

ORDER

IT IS ORDERED that:

1. The stipulation, attached as Appendix A, is adopted.
2. Civil monetary penalties shall be assessed against PORTLAND & WESTERN RAILROAD, INC., in the amount of \$1,000 for one violation of law.
3. Payment of the penalties (\$1,000) shall be suspended, unless:
 - (a) 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; or
 - (b) Defendant fails to 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, 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 of the entry of this order; and
 - (c) Defendant fails to submit a completed Training Verification form 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.

4. Payment of the balance of the penalties (\$1,000) 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 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 JUN 18 2018.



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 381

PUBLIC UTILITY COMMISSION OF OREGON,

Complainant,

v.

PORTLAND & WESTERN RAILROAD, INC.,

Defendant.

STIPULATION FOR ENTRY OF FINAL ORDER

The Public Utility Commission of Oregon, appearing by and through Johanna M. Riemenschneider, Sr. Assistant Attorney General, and Portland & Western Railroad, 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.

///

///

///

///

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

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. Payment of the civil penalty (\$1,000) is suspended and will be waived with no further penalties 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.
- C. Defendant must contact the OUNC Training Bureau online at www.digsafelyoregon.com/resources/speakers-training/ or by calling (503) 232-1987 to arrange for and ensure that all of Defendant's employees that engage in excavation activity as part of their job duties, including but not limited to notifying OUNC of proposed excavations, attend a training session on Oregon Excavation laws within 45 days following the entry of the Commission's final order.
- D. Defendant must take a blank copy of the Training Verification form attached to this Stipulation as Attachment 1 to all required trainings under Paragraph 4.C above. Defendant must ensure that all of its employees attending a required training sign a Training Verification Form to verify attendance. A representative of the organization providing the training (Instructor) must sign the Training Verification Form to verify each individual listed on the Training Verification Form completed the training. Defendant shall return all completed Training Verification Forms to Complainant at the address on the Form within 10 days of date of the last training session and in no

1 event no later than 55 days following the date of the Commission's entry of an order
2 in this docket.

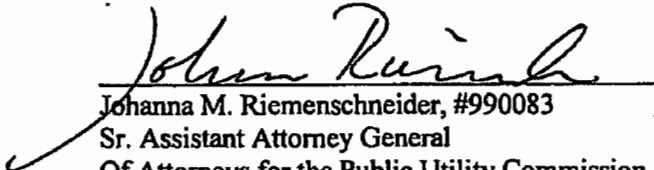
3 E. In the event that Complainant contends that Defendant has not complied with all of
4 the terms of this Stipulation and all OUNC rules for that one-year period,
5 Complainant may reopen this proceeding and petition for imposition of all or a
6 portion of the suspended penalties. In such case, Defendant is entitled to a notice and
7 hearing on the basis upon which Complainant contends that compliance has not
8 occurred.

9 F. Complainant's failure to enforce any provision of this Stipulation, or decision to
10 waive any violation or nonperformance of this Stipulation in one instance, will not
11 constitute a waiver by the Complainant of that provision, any other provision, or any
12 other violation or nonperformance in another instance.

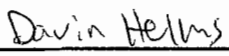
13 5.

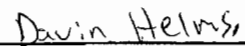
14 This Stipulation is conditioned upon final approval of its terms by the Commission. If
15 the Stipulation is not accepted in its entirety, it is deemed withdrawn.

16 DATED this 30th day of May 2018.

17
18 
19 Johanna M. Riemenschneider, #990083
20 Sr. Assistant Attorney General
21 Of Attorneys for the Public Utility Commission
22 of Oregon

23 DATED this 25 day of May 2018.

24 
25 Representative for Defendant (signature)

26 
(Print name)



**Oregon Public Utility Commission
Training Verification**

Docket NC 381

Instructions:

- Defendant:
 - Schedule training(s) outlined in Stipulation
 - Complete the Training Verification form on the day of the training
 - All attendees must print and sign their name on the Training Verification form
 - Have instructor date and sign the Training Verification form upon completion of training
 - Defendant **must** mail completed Training Verification form to the address below (*retain a copy for your records*)
- Instructor:
 - Date and sign the Training Verification form upon completion of training

Type of Training: *(To be filled out by the instructor)*

- OUNC – Oregon Excavation Laws
 Operator Safety Presentation
 Other:

Instructor Print Name: _____

Instructor Signature: _____ Date: _____

Name (Printed)	Name (Signed)

Mail Completed form to:

Public Utility Commission of Oregon
Administrative Hearings Division
201 High St. SE, Ste. 100
PO Box 1088
Salem OR 97308-1088