

ORDER NO. 19 130

ENTERED APR 15 2019

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 391

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

MARK LATHAM EXCAVATION, INC.,

Defendant.

ORDER

DISPOSITION: STIPULATION ADOPTED

On March 26, 2019, the Public Utility Commission of Oregon filed a complaint against defendant. The complaint charged defendant with one violation of law, OAR 952-001-0090(3), and requested a penalty of \$1,000. On March 26, 2019, a copy of the complaint was served.

On April 3, 2019, 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 Cascade Natural Gas on operator safety. A review of the Commission's records indicates that defendant has completed the training session for operator safety.

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 defendant in the amount of \$1,000 for one violation of law.
3. Payment of the balance of the penalties (\$1,000) shall be suspended, unless 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 4/15/19.



A handwritten signature in blue ink, appearing to read "Jason Eisdorfer", is written over a horizontal line.

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 391

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

MARK LATHAM EXCAVATION, 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 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(3).

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. 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. Unless Defendant has already done so, Defendant must contact Cascade Natural Gas (CNG) by email cody.cox@cngc.com or by calling (541) 706-6281 and arrange for and ensure that all of Defendant's employees that engage in excavation activity as a part of their job duties attend an operator safety presentation provided by CNG within 45 days following the entry of a final order.
- D. Defendant must take a blank copy of the Training Verification form attached to this Stipulation as Attachment 1 to document all required trainings scheduled 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 person listed on the form completed the training. Defendant must return all completed Training Verification forms to Complainant at the address on the Form within 10 days of the date of the last training session and in no event later than 55 days following the date of the Commission's entry of an order in this docket.

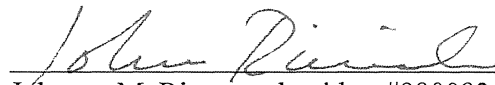
E. In the event that Complainant contends that Defendant has not complied with all of the terms of this Stipulation and all OUNC rules for that one-year period, Complainant may reopen this proceeding and petition for imposition of all or a portion of the suspended penalties. In such case, Defendant is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

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


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 26 day of March 2019.


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

DATED this 3 day of APRIL 2019.


Representative for Defendant (signature)

GABE W. SHEERER
(Print name)