

ORDER NO. 19-200

ENTERED Jun 06 2019

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 392

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

OREGON DEPARTMENT OF
TRANSPORTATION,

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 May 10, 2019, the Commission filed a complaint against defendant. The complaint charged defendant with one violation of law, OAR 952-001-0070(1), and requested a penalty of \$1,000. On May 10, 2019, a copy of the complaint was served.

On May 24, 2019, 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; and

- (2) Agrees to provide the Commission with a current plan or procedure (policy) that identifies the company's workflow process for marking underground facilities and investigating and troubleshooting damages to underground facilities, within 60 days following the entry of a final order.

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.

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 Rule 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 the OREGON DEPARTMENT OF TRANSPORTATION 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 provide the Commission with a current plan or procedure (policy) that identifies the company's workflow process for marking underground facilities and investigating and troubleshooting damages to underground facilities, within 60 days following the entry of this order. The policy may contain the information included in Defendant's correspondence of March 26, 2019, and must include but is not limited to the following:

- 1) Description of the purpose of the policy and commitment thereof by leadership, management, and employees;
 - 2) Identification of notifications and types of responses for marking underground facilities;
 - 3) Identification of tasks assigned to participants by title or position and their roles and responsibilities in the workflow process;
 - 4) Identification of the technology or systems and methods used throughout the policy that enables the completion of identified tasks; and
 - 5) Criteria for periodic review of the effectiveness and identification of best practices.
4. If defendant has not timely provided the Commission with a current plan or procedure (policy) that identifies the company's workflow process for marking underground facilities and investigating and troubleshooting damages to underground facilities within 60 days following the entry of this order, the entire amount assessed in paragraph 2 shall be due immediately following the expiration of either time period.

Made, entered, and effective Jun 6, 2019.



A handwritten signature in blue ink, reading "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.

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OF OREGON**

NC 392

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

OREGON DEPARTMENT OF
TRANSPORTATION,

Defendant.

STIPULATION FOR ENTRY OF FINAL
ORDER

The Public Utility Commission of Oregon, appearing by and through Johanna M. Riemenschneider, Assistant Attorney General, and Oregon Department of Transportation, the Defendant herein, hereby stipulate as follows:

1.

A Complaint in this case is pending before the Commission charging the Defendant with a violation of OAR 952-001-0070(1), and proposing civil penalties of \$1,000.

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.

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:

- 1 A. Defendant must sign and return this Stipulation within 20 days of the date it was
2 served upon (mailed to) Defendant.
- 3 B. Payment of the civil penalty (\$1,000) is suspended and the penalty shall be waived
4 with no further penalties imposed for the violation alleged in the Complaint unless
5 Defendant fails to comply with all of the terms of this Stipulation and all of the rules
6 adopted by the Oregon Utility Notification Center (OUNC) under ORS 757.552 for a
7 one-year period following the date of the Commission's entry of an order.
- 8 C. On or before the 60th day following the Commission's entry of its Order in this
9 docket, Defendant must file in this docket a current plan or procedure (policy) that
10 identifies the company's workflow for marking underground facilities, investigating
11 and troubleshooting damages to underground facilities. The policy may contain the
12 information included in Defendant's correspondence of March 26, 2019 and must
13 include, though it is not limited to the following:
- 14 (1) Description of the purpose of the policy and commitment thereof by leadership,
15 management, and employees;
- 16 (2) Identification of notifications and types of responses for marking underground
17 facilities;
- 18 (3) Identification of tasks assigned to participants by title or position and their roles
19 and responsibilities in the workflow process;
- 20 (4) Identification of the technology or systems and methods used throughout the
21 policy that enables the completion of identified tasks; and
- 22 (5) Criteria for periodic review of effectiveness and identification of best practices.
- 23 D. In the event that Complainant contends that the Defendant has not complied with all
24 of the terms of this Stipulation and all OUNC rules for that one year period,
25 Complainant may reopen this proceeding and petition for imposition of all or a
26 portion of the suspended penalty. In such case, Defendant shall be entitled to a

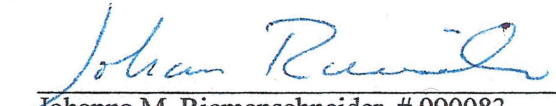
1 hearing and to be notified of the basis upon which Complainant contends that
2 compliance has not occurred.

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

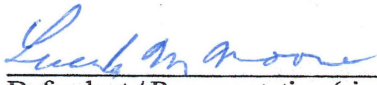
7 5.

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

10
11 DATED this 10th day of May 2019.

12
13 
14 Johanna M. Riemenschneider, # 990083
15 Senior Assistant Attorney General
16 Of Attorneys for the Public Utility Commission
17 of Oregon

18
19 DATED this 24th day of May 2019.

20
21 
22 Defendant / Representative (signature)

23
24 Lucinda M Moore
25 (Print Name)
26