

ORDER NO. 22-066

ENTERED Mar 03 2022

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 401

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

MORENO & NELSON CONSTRUCTION
CORP.,

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 February 4, 2022, the Commission filed a complaint against defendant. The complaint charged defendant with two violations of law, OAR 952-001-0090(9), and requested a penalty of \$1,000. On February 4, 2022, a copy of the complaint was served.

On February 14, 2022, 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; and

- (2) Agrees to update its company policy and procedures for giving notice of an excavation to the OUNC, including but not limited to registering with the OUNC's ITICnxt provider and reviewing tool resource information.

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. In addition, the suspended amount of \$800 is forfeited if defendant fails to comply with any provision of the stipulation or is found to violate any rule within Chapter 952, Division 1 within 12 months 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 MORENO & NELSON CONSTRUCTION CORP. in the amount of \$1,000 for two violations 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 February 17, 2022.
4. Defendant must:
 - (a) Update its company policy and procedures for giving notice of an excavation to the OUNC, including but not limited to registering with the OUNC's ITICnxt provider, contacting the OUNC's

provider to register at this email: nwitic@occinc.com, and reviewing tool resource information at <http://or.tryitic.com>.

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 Mar 3, 2022.



Nolan Moser
Chief Administrative Law Judge
Administrative Hearings Division



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 401

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

MORENO & NELSON CONSTRUCTION
CORP.,

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 Moreno & Nelson Construction Corp., the defendant herein, hereby stipulate as follows:

1.

A Complaint in this case is pending before the Commission charging the Defendant with two violations of law, OAR 952-001-0090(9).

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. \$200 becomes due and payable on or before the 30th day following the Commission's
4 entry of its order in this case.
- 5 C. Payment must be by money order made out to the Public Utility Commission of
6 Oregon, and the memo line of the money order must state the "NC" docket number
7 in the caption of this Stipulation.
- 8 D. Payment of the balance of the penalties (\$800) is suspended and will be waived with
9 no further penalties imposed for the violations alleged in the Complaint unless
10 Defendant fails to comply with all of the terms of this Stipulation and all of the rules
11 adopted by the Oregon Utility Notification Center (OUNC) under ORS 757.552 for a
12 one-year period following the date of the Commission's entry of an order.
- 13 E. Defendant must update company policy and procedures for giving notice of an
14 excavation to the OUNC. This includes but not limited to registering with the
15 OUNC's ITICnxt provider. Contact the OUNC's provider to register at this email:
16 nwitic@occinc.com. This also includes reviewing tool resource information at
17 <http://or.tryitic.com>.
- 18 F. In the event that Complainant contends that Defendant has not complied with all of
19 the terms of this Stipulation and all OUNC rules for that one-year period,
20 Complainant may reopen this proceeding and petition for imposition of all or a
21 portion of the suspended penalties. In such case, Defendant is entitled to a notice and
22 hearing on the basis upon which Complainant contends that compliance has not
23 occurred.
- 24 G. Complainant's failure to enforce any provision of this Stipulation, or decision to
25 waive any violation or nonperformance of this Stipulation in one instance, will not
26


1 constitute a waiver by the Complainant of that provision, any other provision, or any
2 other violation or nonperformance in another instance.

3 H. If Defendant fails to comply with any of the conditions outlined above or the
4 Defendant is found to have violated any rule within Chapter 952, Division 1 within
5 12 months, the suspended amount of \$800 is forfeited.

6 5.

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

9
10 DATED this 4th day of February 2022.

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12 
13 Johanna M. Riemenschneider, OSB No. 990083
14 Sr. Assistant Attorney General
Of Attorneys for the Public Utility Commission
of Oregon

15 DATED this 14 day of February 2022.

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18 Representative for Defendant (signature)

19 John Nelson
20 (Print name)
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