

ORDER NO. 23-236

ENTERED Jul 03 2023

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 406

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

PNW FLATWORK, INC.,

Defendant.

ORDER

DISPOSITION: STIPULATION ADOPTED

On June 13, 2023, the Public Utility Commission of Oregon filed a complaint against defendant. The complaint charged defendant with one violation of law, OAR 952-001-0050(1), and requested a penalty of \$1,000.00. On June 13, 2023, a copy of the complaint was served.

On June 19, 2023, 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 develop and implement updated safety plan procedures (policy) that identify the workflow for giving notice for proposed excavation work to the 811/One Call Center as required by OAR Chapter 952.

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 PNW FLATWORK, INC., in the amount of \$1,000.00 for one violation of law.
3. Payment of the penalties (\$1,000.00) 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 develop and implement updated safety plan procedures (policy) that identify the workflow for giving notice for proposed excavation work to the 811/One Call Center as required by OAR Chapter 952 within 60 days following the entry of this order. The policy must include but not limited to the following:
 - (1) Description of the purpose of the policy and commitment thereof by leadership, management, and employees;
 - (2) Identification of types of notifications given to the 811/One-Call Center;
 - (3) Identification of tasks assigned to participants by title or position and their role and responsibilities in the workflow process;
 - (4) Workflow must address the reassignment of tasks when Company participants are unable to fulfill notification to the 811/One Call Center;

- (5) Procedures in the policy that address the following:
 - (a) Applicable Oregon Utility Notification Center OAR Chapter 952 safety standards:
<https://secure.sos.state.or.us/oard/displayChapterRules.action?selectedChapter=166>;
 - (b) OR-OSHA Program Directive 303:
<https://osha.oregon.gov/OSHARules/pd/pd-303.pdf>;
 - (c) Oregon One-Call Center manual for ITICnxt:
<http://or.tryitic.com/wp-content/uploads/sites/7/2021/08/ITICnxt-Full-Manual-Oregon-080621.pdf>;
 - (d) Type of work and drawing tools to electronically premark/white line (Radius, Route, Property Street and Other) and avoid over notification to 811/One Call Center;
 - (e) CGA best practice - White lining 5.02
<https://bestpractices.commongroundalliance.com/5-Excavation/502-White-Lining#mainContentAnchor>;
 - (f) CGA best practice – Positive response 5.8
<https://bestpractices.commongroundalliance.com/5-Excavation/508-Positive-Response#mainContentAnchor>;
 - (g) CGA best practice – Documentation of Marks 5.11
<https://bestpractices.commongroundalliance.com/5-Excavation/511-Documentation-of-Marks#mainContentAnchor>; and
 - (h) CGA best practice – Marking Preservation 5.17
<https://bestpractices.commongroundalliance.com/5-Excavation/517-Marking-Preservation#mainContentAnchor>;
 - (6) Identification of technology or systems and methods used throughout the policy that enables the completion of identified tasks; and
 - (7) Criteria for periodic review of effectiveness and identification of best practices; or
- c. Defendant fails to provide a copy of the updated policy developed under paragraph 3.b above to the Commission within 60 days following the entry of this order.

4. Payment of the balance of the penalties (\$1,000.00) 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 paragraph 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 Jul 3, 2023.



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 406

PUBLIC UTILITY COMMISSION OF
OREGON,

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v.

PNW FLATWORK, INC.,

Defendant.

STIPULATION FOR ENTRY OF ORDER

The Public Utility Commission of Oregon, appearing by and through Johanna M. Riemenschneider, Senior Assistant Attorney General, and PNW Flatwork, 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 952-001-0050(1).

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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1 4.

2 The parties further agree that the Commission may enter an order assessing civil
3 monetary penalties against Defendant in the amount of \$1,000 under the following terms and
4 conditions:

- 5 A. Defendant must sign and return this Stipulation within 20 days of the date it was
6 served upon (mailed to) Defendant.
- 7 B. Payment of the penalty (\$1,000) is suspended and will be waived with no further
8 penalties imposed for the violation alleged in the Complaint unless Defendant fails to
9 comply with all of the terms of this Stipulation and all of the rules adopted by the
10 Oregon Utility Notification Center (OUNC) under ORS 757.552 for a one-year period
11 following the date of the Commission's entry of an order.
- 12 C. Within 60 days of entry of the OPUC Final Order: Defendant must develop and
13 implement updated safety plan procedures (policy) that identify the workflow for
14 giving notice for proposed excavation work to the 811/One Call Center as required
15 by OAR Chapter 952. The policy must include but not limited to the following:
- 16 a. Description of the purpose of the policy and commitment thereof by
17 leadership, management, and employees.
 - 18 b. Identification of types of notifications given to the 811/One-Call Center.
 - 19 c. Identification of tasks assigned to participants by title or position and their role
20 and responsibilities in the workflow process.
 - 21 d. Workflow must address the reassignment of tasks when Company
22 participants are unable to fulfill notification to the 811/One Call Center.
 - 23 e. Procedures in the policy that address the following:
 - 24 i. Applicable Oregon Utility Notification Center OAR Chapter 952 safety
25 standards:

26 <https://secure.sos.state.or.us/oard/displayChapterRules.action?selectedChapter=166>

1 ii. OR-OSHA Program Directive 303:

2 <https://osha.oregon.gov/OSHArules/pd/pd-303.pdf>

3 iii. Oregon One-Call Center manual for ITICnxt: [http://or.tryitic.com/wp-](http://or.tryitic.com/wp-content/uploads/sites/7/2021/08/ITICnxt-Full-Manual-Oregon-080621.pdf)
4 [content/uploads/sites/7/2021/08/ITICnxt-Full-Manual-Oregon-080621.pdf](http://or.tryitic.com/wp-content/uploads/sites/7/2021/08/ITICnxt-Full-Manual-Oregon-080621.pdf)

5 iv. Type of work and drawing tools to electronically premark/white line (Radius,
6 Route, Property Street and Other) and avoid over notification to 811/One Call Center.

7 v. CGA best practice - White lining 5.02

8 [https://bestpractices.commongroundalliance.com/5-Excavation/502-White-](https://bestpractices.commongroundalliance.com/5-Excavation/502-White-Lining#mainContentAnchor)
9 [Lining#mainContentAnchor](https://bestpractices.commongroundalliance.com/5-Excavation/502-White-Lining#mainContentAnchor)

10 vi. CGA best practice – Positive response 5.8

11 [https://bestpractices.commongroundalliance.com/5-Excavation/508-Positive-](https://bestpractices.commongroundalliance.com/5-Excavation/508-Positive-Response#mainContentAnchor)
12 [Response#mainContentAnchor](https://bestpractices.commongroundalliance.com/5-Excavation/508-Positive-Response#mainContentAnchor)

13 vii. CGA best practice – Documentation of Marks 5.11

14 [https://bestpractices.commongroundalliance.com/5-Excavation/511-Documentation-of-](https://bestpractices.commongroundalliance.com/5-Excavation/511-Documentation-of-Marks#mainContentAnchor)
15 [Marks#mainContentAnchor](https://bestpractices.commongroundalliance.com/5-Excavation/511-Documentation-of-Marks#mainContentAnchor)

16 viii. CGA best practice – Marking Preservation 5.17

17 [https://bestpractices.commongroundalliance.com/5-Excavation/517-Marking-](https://bestpractices.commongroundalliance.com/5-Excavation/517-Marking-Preservation#mainContentAnchor)
18 [Preservation#mainContentAnchor](https://bestpractices.commongroundalliance.com/5-Excavation/517-Marking-Preservation#mainContentAnchor)

19 f. Identification of technology or systems and methods used throughout the policy
20 that enables the completion of identified tasks.

21 g. Criteria for periodic review of effectiveness and identification of best practices.

22 D. Within 60 days of entry of the OPUC Final Order: Defendant must provide a copy of
23 the updated policy developed under Paragraph C to the Commission.

24 E. In the event that Complainant contends that Defendant has not complied with all of
25 the terms of this Stipulation and all OUNC rules for that one-year period,

26 Complainant may reopen this proceeding and petition for imposition of all or a

1 portion of the suspended penalties. In such case, Defendant is entitled to a notice and
2 hearing on the basis upon which Complainant contends that compliance has not
3 occurred.

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

8 5.

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

11 DATED this 13th day of June 2023.

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

18
19 DATED this 19 day of JUNE 2023.

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21 [Signature]
22 Defendant (Representative (signature))
23 Jim Fettig
24 (Print Name)
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