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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 4

PUBLIC UTILITY COMMISSION OF)
OREGON,)
)
Complainant,)
)
v.)
)
THACKER EXCAVATING, INC. (an)
Oregon Corporation),)
)
Defendant.)

ORDER

DISPOSITION: STIPULATION ADOPTED

On September 23, 1999, a complaint was filed by the Public Utility Commission of Oregon against defendant. The complaint charged defendant with two violations of law and requested a penalty of \$1,000. On September 24, 1999, a copy of the complaint was served.

On September 30, 1999, the parties to this proceeding entered into a stipulation which is attached as Appendix A and is incorporated by reference.

The defendant admits committing the violations alleged in the complaint. The stipulation is approved.

From the foregoing, it is concluded that no hearing is required; that, under the terms of the stipulation, the allegations of the complaint are true; that defendant has violated Oregon Administrative Rule(s) as alleged; and that, pursuant to 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. Civil monetary penalties shall be assessed against defendant in the amount of \$1,000; and
2. Defendant shall pay the sum of \$200, due and payable within 30 days from the date of service of this order; and
3. Payment of the balance of the penalties (\$800) shall be suspended for a period of one year following entry of this order.

Made, entered, and effective _____.

Ron Eachus
Chairman

Roger Hamilton
Commissioner

Joan H. Smith
Commissioner

Under ORS 756.580, a party may petition the circuit court for judicial review of this order.

APPENDIX A

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

NC 4

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

THACKER EXCAVATING, INC. (an Oregon
Corporation),

Defendant.

STIPULATION FOR ENTRY OF FINAL
ORDER

The Public Utility Commission of Oregon, appearing by and through Paul A. Graham, Assistant Attorney General, and Alan Thacker, 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, as set out in the attached Complaint on file herein.

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(s) were committed as alleged in the Complaint and is willing for the Commission to enter an order finding that those violation(s) were committed as alleged in the Complaint.

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4.

The parties further agree that the Commission may enter an order assessing civil monetary penalties against the defendant in the amount of \$1000 under the following terms and conditions:

- A. \$200 shall become due and payable on or before the thirteenth day following the Commission's entry of a final order in this case. Payment of the balance of the penalties (\$800) shall be suspended for a period of one year following the entry of the Commission's final order in this case. If defendant complies with all of the rules adopted by the Oregon Utility Notification Center (OUNC) under ORS 757.552 for that one year period, the balance of the penalties (\$800) shall be dismissed and no further penalties shall be imposed for the violations alleged in the Complaint.
- B. In addition, defendant shall contact Mr. Frank Planton, General Manager at the One Call Center and arrange for a safety presentation for employees of defendant to be held within 90 days following the entry of the Commission's final order in this case.
- C. In the event that complainant contends that the defendant has not complied with all of the conditions of this stipulation, complainant may reopen this proceeding and petition for imposition of all or a portion of the suspended penalties. In such case defendant shall be entitled to a hearing and to be notified of the basis upon which complainant contends that compliance has not occurred.

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5.

This stipulation is conditioned upon final approval of its terms by the Commission. If the stipulation is not accepted in its entirety, it shall be deemed withdrawn.

DATED this _____ day of January 2000.

Paul A. Graham, OSB #77190
Assistant Attorney General
Of Attorneys for PUC Staff

DATED this _____ day of September, 1999.

Representative for Defendant