

ORDER NO. 13 377
ENTERED OCT 16 2013

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 335

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

BRAUN EXCAVATING, INC., (an
Oregon corporation),

Defendant.

ORDER

DISPOSITION: STIPULATION ADOPTED

On September 19, 2013, the Public Utility Commission of Oregon filed a complaint against defendant. The complaint charged defendant with two violations of law, OAR 952-001-0050(1) and OAR 952-001-0090(1), and requested a penalty of \$6,000. On September 19, 2013, a copy of the complaint was served.

On October 4, 2013, 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 violations 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 the Oregon Utility Notification Center Speakers Bureau on Oregon excavation laws.

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 two years 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 Rules as alleged. Under the provisions of ORS 757.993, penalties should be assessed against defendant under the terms and conditions of the stipulation.

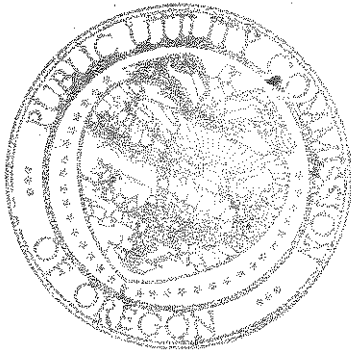
ORDER

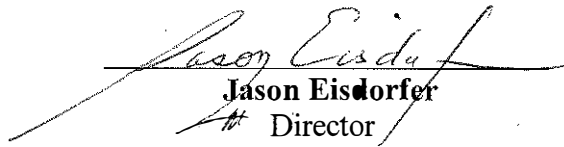
IT IS ORDERED that:

1. The stipulation, attached as Appendix A, is adopted.
2. Civil monetary penalties shall be assessed against Braun Excavating, Inc, in the amount of \$6,000 for two violations of law.
3. Defendant shall pay the sum of \$1,200, due and payable within 30 days from the date of service of this order. Payment shall be by money order made out to the **Public Utility Commission of Oregon**, and the memo line of money order shall state the "NC" docket number in the caption of this order. (Mail payment to: Public Utility Commission of Oregon, PO Box 2153, Salem, OR 97308.)
4. Payment of the balance of the penalties (\$4,800) shall be suspended, unless:
 - (a) Defendant fails to comply with paragraph 3 above; or
 - (b) A showing is made that defendant has violated, within two years of the date of this order, any rules administered by the Oregon Utility Notification Center; or
 - (c) Defendant fails to timely complete a training session with the Oregon Utility Notification Center Speakers Bureau. Defendant shall contact the OUNC Speakers Bureau to arrange for, and attend a training session on Oregon excavation laws within 45 days of the entry of this order.

5. If defendant has not paid the amount assessed in paragraph 3 above within 30 days from the date of service of this order, or has not timely completed a training session on Oregon excavation laws within 45 days of the entry of this order, the unpaid balance of the amount assessed in paragraph 2 shall be due immediately following the expiration of either time period.

Made, entered, and effective OCT 16 2013.




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 335

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

Braun Excavating, Inc.,
(an Oregon corporation),

Defendant.

STIPULATION FOR ENTRY OF ORDER

The Public Utility Commission of Oregon, appearing by and through Johanna M. Riemenschneider, Assistant Attorney General, and Braun Excavating, Inc., 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 952-001-0050(1) and OAR 952-001-0090(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 violations were committed as alleged in the Complaint and is willing for the Commission to enter an order finding that the violations 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 Defendant in the amount of \$6,000 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. For the first violation, \$200 becomes due and payable on or before the 30th day following the Commission's entry of its order in this case.
- C. The second violation, because Defendant was aware of OUNC requirements, is considered an intentional violation, therefore \$1,000 shall become due and payable on or before the 30th day following the Commission's entry of a final order in this case.
- D. Payment must be by money order made out to the Public Utility Commission of Oregon, and the memo line of the money order must state the "NC" docket number in the caption of this Stipulation.
- E. Payment of the balance of the penalties (\$4,800) will be permanently suspended and no further penalties will be 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 two-year period following the date of the Commission's entry of an order.
- F. Defendant must contact the OUNC Speakers Bureau online at www.digsafelyoregon.com or by calling (503) 232-1987 to arrange for and attend a training session on Oregon excavation laws within 45 days following the entry of the Commission's order.
- G. 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 two-year period, Complainant may reopen this proceeding and petition for imposition of all or a

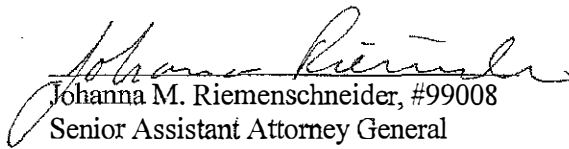
1 portion of the suspended penalties. In such case, Defendant is entitled to a hearing
2 and to be notified of the basis upon which Complainant contends that compliance has
3 not occurred.

4 H. 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 19 day of September 2013.

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14 
15 Johanna M. Riemenschneider, #99008
16 Senior Assistant Attorney General
17 Of Attorneys for the Public Utility Commission
18 of Oregon

19 DATED this 4th day of October 2013.

20 
21 Defendant / Representative (signature)

22 Chris Braun
23 (Print Name)