

ORDER NO. **17 355**
ENTERED **SEP 14 2017**

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 366

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

CURTIS HEINTZ EXCAVATING, INC.,

Defendant.

ORDER

DISPOSITION: STIPULATION ADOPTED

On July 27, 2017, the Public Utility Commission of Oregon filed a complaint against defendant. The complaint charged defendant with one violation of law, OAR 952-001-0050, and requested a penalty of \$1,000. On July 27, 2017, a copy of the complaint was served.

On July 27, 2017, 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 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. A review of the Commission's records indicates that the defendant has completed the training session for excavation laws.

ORDER NO. **17 355**

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 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 Curtis Heintz Excavating, Inc., in the amount of \$1,000 for one violation of law.
3. Payment of the penalties (\$1,000) shall be suspended, unless 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.

Made, entered, and effective SEP 14 2017.



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.

1 BEFORE THE PUBLIC UTILITY COMMISSION
2 OF OREGON

3 NC 366

4 PUBLIC UTILITY COMMISSION OF
OREGON,

5 Complainant,

6 v.
7 CURTIS HEINTZ EXCAVATING, INC.,

8 Defendant.

9
10 STIPULATION FOR ENTRY OF ORDER

11 The Public Utility Commission of Oregon, appearing by and through Johanna M.

12 Riemenschneider, Assistant Attorney General, and Curtis Heintz Excavating, Inc., the Defendant
herein, hereby stipulate as follows:

13 1.

14 A Complaint in this case is pending before the Commission charging the Defendant with
15 one violation of law, OAR 952-001-0050.

16 2.

17 Both parties to this proceeding are willing to forego further processing of that Complaint
18 and further are willing to resolve this matter on the basis of this Stipulation.

19 3.

20 The Defendant admits that the violation was committed as alleged in the Complaint and
21 is willing for the Commission to enter an order finding that the violation was committed as
22 alleged in the Complaint.

23

24 ///

25 ///

26 ///

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. Defendant must contact the OUNC Speakers Bureau online at
13 www.digsafelyoregon.com or by calling (503) 232-1987 to arrange for and ensure
14 that all of Defendant's employees that engage in excavation activity as part of their
15 job duties, including but not limited to notifying the Oregon Utility Notification
16 Center of proposed excavations, attend a training session on Oregon excavation laws
17 within 45 days following the entry of the Commission's order.
- 18 D. Defendant must take a blank copy of the Training Verification form attached to this
19 Stipulation as Attachment 1 to all required trainings scheduled under paragraphs 4.C.
20 above. Defendant must ensure that all of its employees attending a required training
21 sign a Training Verification form to verify attendance. A representative of the
22 organization providing the training (Instructor) must sign the Training Verification
23 form to verify each person listed on the form completed the training. Defendant must
24 return all completed Training Verification forms to Complainant at the address on the
25 Form within 10 days of the date of the last training session and in no event later than
26 55 days following the date of the Commission's entry of an order in this docket.

1 E. In the event that Complainant contends that Defendant has not complied with all of
2 the terms of this Stipulation and all OUNC rules for that one-year period,
3 Complainant may reopen this proceeding and petition for imposition of all or a
4 portion of the suspended penalties. In such case, Defendant is entitled to a notice and
5 hearing on the basis upon which Complainant contends that compliance has not
6 occurred.

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

5.

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

DATED this 27th day of July 2017.

Johanna M. Riemenschneider, #990083
Senior Assistant Attorney General
Of Attorneys for the Public Utility Commission
of Oregon

DATED this 22 day of July 2017.

Defendant / Representative (signature)

Curtis Herwe
(Print Name)



Oregon Public Utility Commission Training Verification

ORDER NO. 17 355

Docket NC 3661

Instructions:

- Defendant:
 - Schedule training(s) outlined in Stipulation
 - Complete the Training Verification form on the day of the training
 - All attendees must print and sign their name on the Training Verification form
 - Have instructor date and sign the Training Verification form upon completion of training
 - Defendant **must** mail completed Training Verification form to the address below (*retain a copy for your records*)
 - Instructor:
 - Date and sign the Training Verification form upon completion of training

Type of Training: (To be filled out by the Instructor)

OUNC – Oregon Excavation Laws Operator Safety Presentation Other:

Instructor Print Name: _____

Instructor Signature: _____ Date: _____

Mail Completed form to:

Public Utility Commission of Oregon
Administrative Hearings Division
201 High St. SE, Ste. 100
PO Box 1088
Salem OR 97308-1088