



DEPARTMENT OF JUSTICE  
GENERAL COUNSEL DIVISION

September 23, 2011

Peter Cloutier  
Potelco, Inc.  
14103 Stewart Rd  
Sumner WA 98390

Corporation Service Company, Registered Agent  
Potelco, Inc.  
300 Deschutes Way SW - Ste 304  
Tumwater WA 98501

Re: Violation of Oregon Utility Notification Center Rules  
DOJ File No.: 860-100-GB0633-11 / Docket No.: NC 314

**PLEASE READ ALL DOCUMENTS CAREFULLY –  
DIRECT ALL CORRESPONDENCE TO THE PUBLIC UTILITY COMMISSION OF OREGON**

On September 8, 2011, a representative from your company met with the Oregon Utility Notification Center (OUNC) Enforcement Committee to discuss an alleged rule violation. At that meeting, an agreement was reached regarding penalties for the violation.

Enclosed are two sets of documents that formalize the allegation and the agreement. One set is made up of original documents. The other set is a set of copies for your files.

Please refer to the originals. The complaint simply serves as a formal notice to you of the violation you were charged with and requires that you submit an Answer to the **Public Utility Commission** responding to the allegation. You must serve your Answer on the Commission by mailing it to the Public Utility Commission of Oregon, Administrative Hearings Division, PO Box 2148, Salem, OR 97308-2148. Filing an answer would be your opportunity to admit or deny the allegation and, if denied, to ask for a formal hearing. Because you already reached an agreement with the OUNC Committee, you do not need to submit an answer. Instead, you need only sign and return the enclosed Stipulation in order to answer the Complaint.

The Stipulation sets forth the terms and conditions of the agreement you reached with the committee. **You must sign and return the Stipulation within 20 days of the date of this letter in order for it to be approved by the Public Utility Commission as a resolution to the pending Complaint. You need not make payment until the Commission has issued a final order in this matter.**

Potelco, Inc.  
Page 2

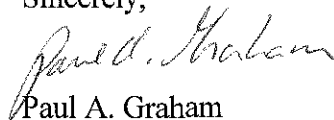
If for some reason you no longer agree to the terms of the Stipulation, you **MUST FILE AN ANSWER TO THE COMPLAINT**, admitting or denying the allegation.

If there is a discrepancy between the formal Stipulation and the agreement reached at the meeting that causes you concern, please contact Michael Thompson at (503) 378-6760.

Otherwise, please return the signed Stipulation to the Public Utility Commission of Oregon at the following address so this matter can be resolved:

Public Utility Commission of Oregon  
Administrative Hearings Division  
550 Capitol St NE – Suite 215  
PO Box 2148  
Salem OR 97308-2148

Sincerely,



Paul A. Graham  
Assistant Attorney General  
Business Activities Section

Enclosures  
PAG/nal/#3000738



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5.

OUNC adopted OAR 952-001-0090 which was in effect at all times herein relevant. The rule provides in relevant part:

(1) An excavator shall not commence an excavation which requires notice under these rules until the excavator has received a response from each operator of underground facilities in the area of the proposed excavation, or until at least two (2) business days (48 hours) have elapsed from the time the excavator notified the Oregon Utility Notification Center.

6.

On or about July 20, 2011, defendant violated OAR 952-001-0090 by commencing an excavation without waiting the required 48 hours to receive a response from the operators of the underground facilities.

7.

ORS 757.993 provides, in relevant part, that:

“\* \* \* every person who violates or who procures, aids or abets in the violation of any rule of the Oregon Utility Notification Center shall incur a penalty of not more than \$1,000 for the first violation and not more than \$5,000 for each subsequent violation.”

8.

Defendant has not violated OUNC rules in the past.

9.

WHEREFORE, the Commission directs the defendant to file a verified answer to this complaint within twenty (20) days from the date this complaint is mailed to the defendant. If no verified answer or other written appearance raising a question of fact or law is filed with the Commission at its office in Salem, Oregon, within the 20-day period, the allegations of the

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1 complaint shall be deemed admitted, and a penalty shall be imposed in the amount of \$1,000 for  
2 each violation alleged, for a total of \$1,000.

3  
4 DATED this 23<sup>rd</sup> day of September, 2011.

5 Respectfully submitted,

6 JOHN R. KROGER  
7 Attorney General

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9 Paul A. Graham, OSB #77190  
10 Assistant Attorney General  
11 Of Attorneys for the Public Utility Commission  
12 of Oregon  
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1 4.

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

- 5 A. Defendant shall sign and return this stipulation within 20 days of the date it was served  
6 upon (mailed to) defendant.
- 7 B. \$200 shall become due and payable on or before the 30th day following the  
8 Commission's entry of a final order in this case.
- 9 C. Payment shall be by money order made out to the Public Utility Commission of  
10 Oregon, and the memo line of the money order shall state the "NC" docket number in the  
11 caption of this stipulation.
- 12 D. Payment of the balance of the penalties (\$800) shall be permanently suspended and no  
13 further penalties shall be imposed for the violation alleged in the Complaint unless  
14 defendant fails to comply with all of the terms of this stipulation and all of the rules  
15 adopted by the Oregon Utility Notification Center (OUNC) under ORS 757.552 for a one  
16 year period following the date of the Commission's entry of a final order.
- 17 E. Defendant shall contact the OUNC Speakers Bureau online at [www.digsafelyoregon.com](http://www.digsafelyoregon.com)  
18 or by calling (503) 232-1987 to arrange for and attend a training session on Oregon  
19 excavation laws within 45 days following the entry of a final order.
- 20 F. In the event that complainant contends that the defendant has not complied with all of the  
21 terms of this stipulation and all OUNC rules for that one year period, complainant may  
22 reopen this proceeding and petition for imposition of all or a portion of the suspended  
23 penalties. In such case defendant shall be entitled to a hearing and to be notified of the  
24 basis upon which complainant contends that compliance has not occurred.

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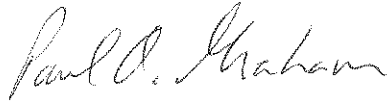
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5.

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 23<sup>rd</sup> day of September, 2011.



Paul A. Graham, OSB #77190  
Assistant Attorney General  
Of Attorneys for the Public Utility Commission  
of Oregon.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Representative for Defendant (signature)

\_\_\_\_\_  
(Print name)