



**DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION**

March 16, 2016

Jaron McKernan-Register Agent
Jaron McKernan Enterprises, Inc.
2102 NW Hemlock Place
Redmond, OR 97756

Re: Violation of Oregon Utility Notification Center Rules
DOJ File No. 860501-GB0205-16 / Docket No. NC 349

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

On February 11, 2016, 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 contain a Complaint and a Stipulation. The Complaint serves as a formal notice to you of the violation you were charged with and requires that you Answer the allegation. 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. If you had not reached an agreement with the OUNC Committee, filing an Answer would be your opportunity to admit or deny the allegation and, if denied, to ask for a formal hearing.

The Stipulation sets forth the terms and conditions of the agreement you reached with the OUNC Committee. To finalize the settlement, **you must sign the original Stipulation and mail it within 20 days of the date of this letter to:**

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

Jaron McKernan Enterprises, Inc.

March 16, 2016

Page 2

You do not need to make payment, if any is due, until the Commission has approved the Stipulation. The Commission should issue an order adopting the Stipulation within 30 days of its receipt. Please retain the extra copy of the Stipulation for your files.

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 Kevin Hennessy at (503) 378-6115.

Sincerely,

A handwritten signature in blue ink, appearing to read "Johanna Riemenschneider".

Johanna M. Riemenschneider
Senior Assistant Attorney General
Business Activities Section

JMR:mxg/#7198540

Enclosures

1 **BEFORE THE PUBLIC UTILITY COMMISSION**

2 **OF OREGON**

3 NC 349

4 PUBLIC UTILITY COMMISSION OF
5 OREGON,

6 Complainant,

7 v.

8 JARON MCKERNAN ENTERPRISES, INC.
9 (An Oregon corporation),

10 Defendant.

COMPLAINT

11 1.

12 This proceeding is initiated by the Public Utility Commission of Oregon (hereinafter
13 "Commission") to determine whether civil monetary penalties should be assessed as provided in
14 ORS 757.993. The Commission maintains its offices at:

15 201 High Street SE, P.O. Box 1088, Salem, Oregon, 97308-1088.

16 2.

17 At all times herein relevant, Defendant was doing business in this state.

18 3.

19 Under ORS 757.993, the Commission has discretion to seek penalties for violations of
20 rules adopted by the Oregon Utility Notification Center (OUNC).

21 4.

22 Under ORS 757.552, OUNC has adopted rules that prescribe requirements for
23 notification to OUNC of excavation activity and marking of underground facilities for the
24 purpose of preventing damage to such facilities. "Excavation" and other relevant definitions are
25 contained in OAR 952-001-0010.

26 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

5.

OUNC adopted OAR 952-001-0050, which was in effect at all times herein relevant. The rule provides in relevant part:

(1) * * * [A]t least two (2) business days, but not more than ten (10) business days before commencing an excavation, the excavator shall notify the Oregon Utility Notification Center of the date and location of the proposed excavation, and the type of work to be performed.

6.

On or about November 12, 2015, Defendant violated OAR 952-001-0050(1) in that Defendant failed to notify the Oregon Utility Notification Center of a proposed excavation before commencing an excavation near 61337 Kindle Rock Loop, Bend, Oregon.

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 Defendant to file a verified answer to this Complaint within twenty (20) days from the date this Complaint is mailed to 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 Complaint are deemed admitted, and a penalty will be imposed in the

///
///
///


1 amount of \$1,000 for each violation alleged, for a total of \$1,000.

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

DATED this 16th day of March, 2016.

Respectfully submitted,

ELLEN F. ROSENBLUM
Attorney General


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

1 **BEFORE THE PUBLIC UTILITY COMMISSION**

2 **OF OREGON**

3 NC 349

4 PUBLIC UTILITY COMMISSION OF
OREGON,

5 Complainant,

6 v.

7 JARON MCKERNAN ENTERPRISES, INC.
8 (an Oregon corporation),

9 Defendant.

STIPULATION FOR
ENTRY OF FINAL ORDER

10 The Public Utility Commission of Oregon, appearing by and through Johanna M.
11 Riemenschneider, Assistant Attorney General, and Jaron McKernan Enterprises, Inc. the
12 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. \$200 becomes due and payable on or before the 30th day following the Commission's
8 entry of its order in this case.

9 C. Payment must be by **money order** made out to the **Public Utility Commission of**
10 **Oregon**, and the memo line of the money order must state the "NC" docket number
11 in the caption of this Stipulation.

12 D. Payment of the remaining penalty (\$800) will be suspended and no further penalties
13 will be imposed for the violation alleged in the Complaint unless Defendant fails to
14 comply with all of the terms of this Stipulation and all of the rules adopted by the
15 Oregon Utility Notification Center (OUNC) under ORS 757.552 for a one-year period
16 following the date of the Commission's entry of an order.

17 E. Defendant must contact the OUNC Speakers Bureau online at
18 www.digsafelyoregon.com or by calling (503) 232-1987 to arrange for and attend a
19 training session on Oregon excavation laws within 45 days following the entry of the
20 Commission's order.

21 F. Defendant must also contact Bill Walker at Cascade Natural Gas (CNG) by email
22 William.Walker@cngc.com or by calling (541) 706-6290 and arrange and attend an
23 operator safety presentation provided by CNG within 45 days following the entry of a
24 final order.

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


1 Complainant may reopen this proceeding and petition for imposition of all or a
2 portion of the suspended penalties. In such case, Defendant is entitled to a hearing
3 and to be notified of the basis upon which Complainant contends that compliance has
4 not occurred.

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

9 5.

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

12
13 DATED this 16th day of March, 2016.

14
15 
16 Johanna M. Riemenschneider, #990083
17 Senior Assistant Attorney General
18 Of Attorneys for the Public Utility Commission
19 of Oregon

20 DATED this ___ day of March, 2016.

21 _____
22 Defendant / Representative (signature)

23 _____
24 (Print Name)