



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

October 13, 2017

C T Corporation, Registered Agent
Zayo Group, LLC dba Electric Lightwave
780 Commercial Street SE, Suite 100
Salem, OR 97301

Ken Desgarenes, Manager
Zayo Group, LLC dba Electric Lightwave
1805 29th Street, Suite 2050
Boulder, CO 80301

Charles Forst
Zayo Group, LLC dba Electric Lightwave
1621 18th Street, Suite 100
Denver, CO 80202

Re: Violation of Oregon Utility Notification Center Rules
DOJ File No. 860140-GB0547-17/ Docket No. NC 377

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

On September 20, 2017, a representative from your company participated in a telephone conference with the 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 Enforcement 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 Enforcement 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 Enforcement Committee. To finalize the settlement, **you must sign the original Stipulation and mail it within 20 days of the date of this letter to:**

Zayo Group, LLC dba Electric Lightwave
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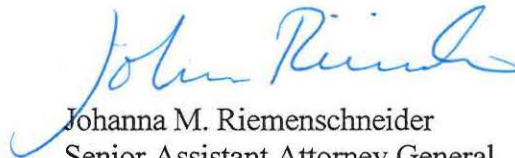
**Public Utility Commission of Oregon
Administrative Hearings Division
201 High Street SE, Suite 100
Salem OR 97308-1088**

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 within 20 days, or a default order may be issued.

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,



Johanna M. Riemenschneider
Senior Assistant Attorney General
Business Activities Section

Enclosures
JMR/pjr/#8511066

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5.

OUNC adopted OAR 952-001-0080 which was in effect at all times herein relevant. The rule provides in relevant part:

Within 10 business days after a designer notifies the Oregon Utility Notification Center of a proposed project, the operator of the underground facilities must:

- (1) Mark with reasonable accuracy all of its locatable underground facilities within the area of proposed excavation. All marks must indicate the name, initials or logo of the operator of the underground facilities, and the width of the facility if it is greater than 2 inches;
- (2) Provide the excavator the best description available to the operator of the unlocatable underground facilities in the area of the proposed excavation including as-constructed drawings, or other facility maps that are maintained by the facility operator; or
- (3) Contact the person requesting design information and agree on a time, prior to the beginning of the proposed project, for exchange of the information required under section (1) or section (2) of this rule.

6.

On or about May 16, 2017, Defendant violated OAR 952-001-0080 in that the Defendant failed to respond to a request for location of underground facilities at or near West Union Road, Beaverton, Oregon, within ten (10) business days.

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.”

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Defendant has not violated OUNC rules in the past.

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

DATED this 13 day of October 2017.

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 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. Payment of the penalty (\$1,000) is suspended and the penalty shall be waived with no
8 further penalties imposed for the violation alleged in the Complaint unless Defendant
9 fails to 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. In the event that Complainant contends that Defendant has not complied with all of the
13 terms of this Stipulation and all OUNC rules for that one-year period, Complainant may
14 reopen this proceeding and petition for imposition of all or a portion of the suspended
15 penalties. In such case, Defendant shall be entitled to a notice and hearing on the basis
16 upon which Complainant contends that compliance has not occurred.

17 D. Complainant's failure to enforce any provision of this Stipulation, or decision to waive
18 any violation or nonperformance of this Stipulation in one instance, will not constitute a
19 waiver by the Complainant of that provision, any other provision, or any other violation
20 or nonperformance in another instance.

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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 13 day of October 2017.



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

DATED this _____ day of October 2017.

Representative for Defendant (signature)

(Print name)