



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

May 3, 2018

Stephen A. Redshaw, Registered Agent
Portland General Electric Company
121 SW Salmon Street
Portland, OR 97204

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Portland General Electric,
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121 SW Salmon Street
Portland, OR 97204

Maria Pope, President
Portland General Electric Company
#1WTC0510-Corporate Tax
121 SW Salmon Street
Portland, OR 97204

Re: Violation of Oregon Utility Notification Center Rules
DOJ File No. 860140-GB0291-18/ Docket No. NC 383

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

On February 15, 2018, a representative from your company met with the Public Utility Commission of Oregon's 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:**

**Public Utility Commission of Oregon
Administrative Hearings Division
PO Box 1088
Salem OR 97308-1088**

Portland General Electric Company

May 3, 2018

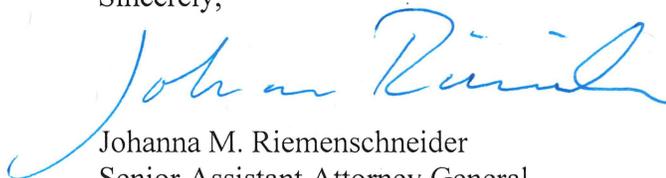
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You do not need to make payment until the Commission has approved the Stipulation. The Commission should issue an order adopting the Stipulation within 30 days of its receipt. Please retain the extra copy of the Stipulation for your files.

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, 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/#8861360

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 NC 383

4 PUBLIC UTILITY COMMISSION OF
5 OREGON,

6 Complainant,

7 v.

8 PORTLAND GENERAL ELECTRIC
9 COMPANY,

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 Ste. 100, 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”, “operator” and other relevant
25 definitions are contained in ORS 757.542 and OAR 952-001-0010.
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5.

OUNC adopted OAR 952-001-0070(1), which was in effect at all times herein relevant.

The rule provides in relevant part:

(1) Except as provided in section (3) of this rule, within 2 business days (48 hours) after the excavator notifies the Oregon Utility Notification Center of a proposed excavation, the operator or its designated agent must:

(a) 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;

(b) Provide marks to the excavator of the unlocatable underground facilities in the area of proposed excavation, using the best information available including as-constructed drawings or other facility records that are maintained by the facility operator; or

(c) Notify the excavator that the operator does not have any underground facilities in the area of the proposed excavation. Acceptable notifications must include locate request call back information and if done with AVR (Automated Voice Response) must have a repeat option and a call back number to hear the information again.

6.

On or about December 9, 2017, Defendant violated OAR 952-001-0070(1) in that Defendant failed to mark with reasonable accuracy all of its locatable underground facilities or provide marks of its unlocatable underground facilities or notify excavator that none exist, in the area of a proposed excavation at or near 958 NE Lilac Court in Hillsboro, Oregon.

7.

ORS 757.993 provides that:

(1) Except as provided in subsection (2) of this section and in addition to all other penalties provided by law, 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.

On October 5, 2017, the Commission issued Order No. 17-383, imposing a \$1,000 civil penalty for violation of OAR 952-001-0080. Payment of the penalty was

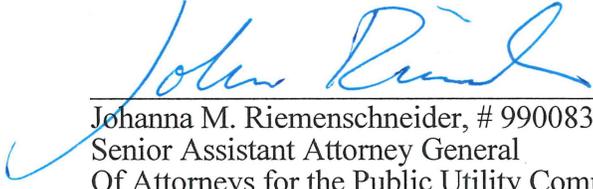
1 suspended unless Portland General Electric Company violated any Rule administered by
2 the Oregon Utility Notification Center within one year.

3 WHEREFORE, the Commission directs Defendant to file a verified answer to this
4 Complaint within twenty (20) days from the date this Complaint is mailed to Defendant.
5 If no verified answer or other written appearance raising a question of fact or law is filed
6 with the Commission at its office in Salem, Oregon, within the 20-day period, the
7 allegations of the Complaint are deemed admitted, and civil penalties will be imposed in
8 the amount of \$6,000. Total civil penalties proposed include a \$5,000 penalty for
9 violation of OAR 952-001-0070(1) and the \$1,000 penalty now due per Order No. 17-
10 383.

11
12 DATED this 3rd day of May 2018.

13 Respectfully submitted,

14 ELLEN F. ROSENBLUM
15 Attorney General

16 
17 Johanna M. Riemenschneider, # 990083
18 Senior Assistant Attorney General
19 Of Attorneys for the Public Utility Commission
20 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 Defendant in the amount of \$6,000 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. The \$1,000 civil penalty becomes due and payable from Order No. 17-383 (Docket
8 NC 370) on or before the 30th day following the Commission's entry of its order in
9 this docket.
- 10 C. Payment must be by money order made out to the Public Utility Commission of
11 Oregon, and the memo line of the money order must state the "NC" docket number
12 for this docket in the caption of this Stipulation.
- 13 D. Payment of the remaining civil penalties (\$5,000) is suspended and will be waived
14 and no further penalties will be imposed for the violation alleged in the Complaint
15 unless Defendant fails to comply with all of the terms of this Stipulation and all of the
16 rules adopted by the Oregon Utility Notification Center (OUNC) under ORS 757.552
17 for a one-year period following the date of the Commission's entry of an order.
- 18 E. On or before the 60th day following the Commission's entry of its order in this docket,
19 Defendant must provide a current plan or procedure (policy) that identifies the
20 company's workflow for marking underground facilities, investigating and
21 troubleshooting damages to underground facilities. The policy must include but is
22 not limited to the following:
- 23 (1) Description of the purpose of the policy and commitment thereof by leadership,
24 management, and employees;
- 25 (2) Identification of notifications and types of responses for marking underground
26 facilities;

- 1 (3) Identification of tasks assigned to participants by title or position and their roles
2 and responsibilities in the workflow process;
3 (4) Identification of the technology or systems and methods used throughout the
4 policy that enables the completion of identified tasks; and
5 (5) Criteria for periodic review of effectiveness and identification of best practices.

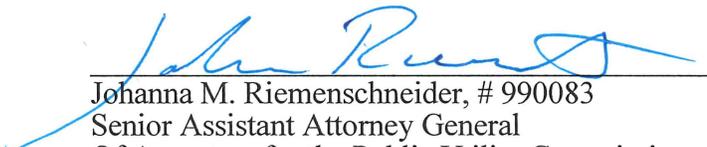
6 F. In the event that Complainant contends that Defendant has not complied with all of
7 the terms of this Stipulation and all OUNC rules for that one-year period,
8 Complainant may reopen this proceeding and petition for imposition of all or a
9 portion of the suspended penalties. In such case, Defendant is entitled to a hearing
10 and to be notified of the basis upon which Complainant contends that compliance has
11 not occurred.

12 G. Complainant's failure to enforce any provision of this Stipulation, or decision to
13 waive any violation or nonperformance of this Stipulation in one instance, will not
14 constitute a waiver by the Complainant of that provision, any other provision, or any
15 other violation or nonperformance in another instance.

16 5.

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

19
20 DATED this 3RD day of May 2018.

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22 
23 Johanna M. Riemenschneider, # 990083
24 Senior Assistant Attorney General
25 Of Attorneys for the Public Utility Commission
26 of Oregon

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DATED this _____ day of May 2018.

Defendant / Representative (signature)

(Print Name)