

ELLEN F. ROSENBLUM
Attorney General



FREDERICK M. BOSS
Deputy Attorney General

DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

August 29, 2018

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Portland General Electric Company
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Portland, OR 97204

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Portland, OR 97204

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Portland General Electric Company
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121 SW Salmon Street
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Mike Hieb / Contract Manager
Portland General Electric Company
CS&I (Construction Services & Inspection)
9480 SW Boeckman Road
Wilsonville, OR 97070

Re: Violation of Oregon Utility Notification Center Rules
DOJ File No. 860140-GB0419-18/ Docket No. NC 385

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

On May 21, 2018, 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:**

**Public Utility Commission of Oregon
Administrative Hearings Division
P.O. Box 1088**

Portland General Electric
August 29, 2018
Page 2

Salem OR 97308-1088

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 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/#9053625

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5.

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

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 April 26, 2018, Defendant violated OAR 952-001-0080 in that the Defendant failed to mark facilities, provide the excavator the best description available to the operator of the unlocatable underground facilities or contact the requestor within ten days to set a time for exchange of required information for the proposed excavation at or near 17055 NW Springville Road and near NW Samuel Drive in Portland, 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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8.

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 \$5,000 for each violation alleged, for a total of \$5,000.

DATED this 29 day of August 2018.

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 385

4 PUBLIC UTILITY COMMISSION OF
5 OREGON,

6 Complainant,

7 v.

8 PORTLAND GENERAL ELECTRIC
9 COMPANY,

10 Defendant.

STIPULATION FOR ENTRY OF FINAL
ORDER

11 The Public Utility Commission of Oregon, appearing by and through Johanna M.
12 Riemenschneider, Assistant Attorney General, and Portland General Electric Company, the
13 Defendant herein, hereby stipulate as follows:

14 1.

15 A Complaint in this case is pending before the Commission charging the Defendant with
16 one violation of law, OAR 952-001-0080.

17 2.

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

20 3.

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

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4.

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

- A. Defendant shall sign and return this Stipulation within 20 days of the date it was served upon (mailed to) Defendant.
- B. Payment of the penalty (\$1,000) is suspended and the penalty shall be waived with no further penalties imposed for the violation alleged in the Complaint unless Defendant fails to comply with all of the terms of this Stipulation and all of the rules adopted by the Oregon Utility Notification Center (OUNC) under ORS 757.552 for a one-year period following the date of the Commission's entry of an order. The Commission also imposed but suspended a \$5,000 civil penalty under Order No. 18-222, and the terms of that Order are incorporated by reference in this Stipulation. Accordingly, the parties have agreed to the suspension and possible waiver of total penalties of \$6,000.
- C. On or before the 60th day following the Commission's entry of its Order in this docket, Defendant must provide a current plan or procedure (policy) that identifies the company's workflow for marking underground facilities, investigating and troubleshooting damages to underground facilities. The policy may be consistent with the policy provided under Commission Order No. 18-222, but must include, though it is not limited to the following:
 - (1) Description of the purpose of the policy and commitment thereof by leadership, management, and employees;
 - (2) Identification of notifications and types of responses for marking underground facilities;
 - (3) Identification of tasks assigned to participants by title or position and their roles and responsibilities in the workflow process;

1 (4) Identification of the technology or systems and methods used throughout the
2 policy that enables the completion of identified tasks; and

3 (5) Criteria for periodic review of effectiveness and identification of best practices.

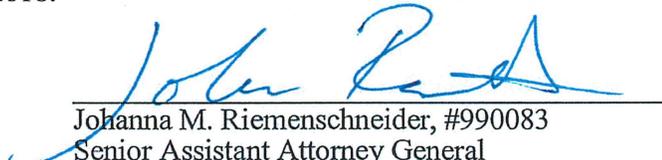
4 D. In the event that complainant contends that the Defendant has not complied with all of
5 the terms of this Stipulation and all OUNC rules for that one year period, complainant
6 may reopen this proceeding and petition for imposition of all or a portion of the
7 suspended penalties. In such case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

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

13 5.

14 This Stipulation is conditioned upon final approval of its terms by the Commission. If
15 the Stipulation is not accepted in its entirety, it shall be deemed withdrawn.

16 DATED this 29 day of August 2018.

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

21 DATED this _____ day of _____ 2018.

22 _____
23 Representative for Defendant (signature)

24 _____
25 (Print name)
26