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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE UNDERGROUND)
PIPELINE PROTECTION ADVISORY) CAUSE NO. 44599
COMMITTEE CASE NO. 7817 AND NOTICE OF)
THE COMMISSION'S INTENT TO RESCIND) APPROVED:
ITS FEBRUARY 4, 2015 ORDER CONCERNING)
CASE NO. 7817)

MAR 18 2015

ORDER OF THE COMMISSION

Presiding Officers:
Carol A. Stephan, Commission Chair
Loraine L. Seyfried, Chief Administrative Law Judge

Based upon a letter received from the General Counsel of the Indiana Utility Regulatory Commission ("Commission") and pursuant to Ind. Code § 8-1-2-72, the Commission hereby commences this Cause and notifies Beer & Slabaugh, Inc. ("Beer & Slabaugh") of its intent to rescind its February 4, 2015 Order in Case No. 7817 upholding the findings of violation by the Commission's Pipeline Safety Division ("Division") and approving the recommendations of the Underground Pipeline Protection Advisory Committee ("Advisory Committee").

1. Commission Jurisdiction. Under Ind. Code § 8-1-26-23(k) and 170 IAC 5-5-3, the Commission has jurisdiction to uphold or reverse a finding of violation of Ind. Code ch. 8-1-26 by the Division and to approve or disapprove the penalty recommended by the Advisory Committee. The Commission also has general authority to rescind, alter, or amend any of its orders upon notice and after an opportunity to be heard. Ind. Code § 8-1-2-72. Therefore, the Commission has jurisdiction over Beer & Slabaugh and the subject matter of this proceeding.

2. Background and Procedural History. On February 4, 2015, the Commission issued an Order upholding the finding of the Division that Beer & Slabaugh failed to provide sufficient clearance between an underground facility and mechanized equipment in violation of Ind. Code § 8-1-26-20(a)(2). The Order also approved the Advisory Committee's recommendation of a civil penalty of \$1,500, for which \$750 may be mitigated by completing training and a corrective action plan.

Prior to upholding the Division's finding of a violation and the Advisory Committee's recommended penalty, Ind. Code § 8-1-26-23(k) requires the Commission to provide notice and an opportunity for a public hearing. Since issuance of the Commission's February 4, 2015 Order, the Commission has learned that Beer & Slabaugh did not receive proper notice of the Advisory Committee's recommended penalty. Letter from Beth Krogel Roads, General Counsel, Commission, to Loraine Seyfried, Chief Administrative Law Judge, Commission (Feb. 26, 2015) (attached).

3. **Notice of Rescission and Remand.** Based upon the information submitted by the Commission's General Counsel, the Commission notifies the Division, the Advisory Committee, and Beer & Slabaugh that it intends to rescind its February 4, 2015 Order concerning Advisory Committee Case No. 7817 and to reopen the case for the purpose of providing proper notice and an opportunity for a public hearing. If the Division, the Advisory Committee, or Beer & Slabaugh has any objection to the proposed rescission, a request for hearing shall be filed under this Cause within 20 days from the date of this Order. If no objection is filed, Advisory Committee Case No. 7817 will be reopened so that the Commission may provide proper notice to Beer & Slabaugh in accordance with Ind. Code § 8-1-26-23(k).

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. Based upon information from the Commission's General Counsel, the Commission intends to rescind its February 4, 2015 Order concerning Advisory Committee Case No. 7817.

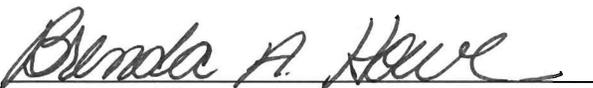
2. Any objection by the Division, the Advisory Committee, or the City of Gary to the Commission's rescission of its February 4, 2015 Order concerning Advisory Committee Case No. 7817 shall be filed within 20 days from the date of this Order.

3. This Order shall be effective on and after the date of its approval.

STEPHAN, MAYS-MEDLEY, HUSTON, WEBER AND ZIEGNER CONCUR:

APPROVED: MAR 18 2015

**I hereby certify that the above is a true
and correct copy of the Order as approved.**



**Brenda A. Howe
Secretary to the Commission**