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January 30, 2004

Robert Butler
824 SW 18th Avenue
Portland, OR 97205

Re: *Petition for Public Records Disclosure Order*:
Public Utility Commission Records

Dear Mr. Butler:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on January 23, 2004, asks the Attorney General to order the Public Utility Commission (PUC) to disclose:

> [T]he time of day on Sept 15th 2003 that NW Natural Gas Co. reported to the PUC of [the] State of Oregon that a gas line in the public right of way was broken and was escaping gas onto the downtown Portland street of SW 18th between Yamhill and SW Taylor. Also the time of day the broken line was "plugged" by [the] emergency response crew.

For the following reasons, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. Any person who is denied the right to inspect or to receive a copy of any public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld from disclosure. ORS 192.450(1).

Attached to your petition is a December 18, 2003, letter from Michael Thompson, the PUC Chief of Pipeline Safety, denying your request for the complete report submitted to the PUC about the September 15th incident. Mr. Thompson told us that he subsequently spoke with you by phone and denied your request for the specific information that is the subject of your petition. Mr. Thompson stated that he denied both requests on the basis of ORS 654.720.

ORS 654.720 requires the PUC to maintain the confidentiality of a report that, under ORS 654.715, a public or telecommunications utility submits about an accident that "occurs within this state upon its premises, or directly or indirectly arises from or is connected with its maintenance or operation, if the accident is attended by loss of human life or limb or serious injury to person or property." ORS 654.720 prohibits public inspection of such a report or "any part thereof." Under the Public Records Law, a public record or information is exempt from disclosure if state law prohibits or restricts disclosure, or otherwise makes the record or information confidential or privileged. ORS 192.502(9).

According to Mr. Thompson, the accident that occurred on September 15, 2003, caused damage to gas facilities sufficiently serious to require NW Natural Gas to submit a report under ORS 654.715.[1] Mr. Thompson also told us that the report received from NW Natural Gas is the only record the PUC has received that states the "time of day" information that you requested.

Because the information you requested is contained within a report submitted to PUC in accordance with the requirements of ORS 654.715, and ORS 654.720 prohibits PUC from disclosing the report in whole or in part, the information you requested is exempt from disclosure under ORS 192.502(9). For this reason, we deny your petition.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS13513
c: Michael Thompson, PUC, Chief of Pipeline Safety

[1] We believe that assessing the seriousness of property damage for purposes of determining whether a report is required under ORS 654.715 is appropriately done by the PUC. Therefore, we are not prepared to question its determination in this instance.