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BEFORE THE CIVIL SERVICE COMMISSION  
FOR THE CITY OF SEATTLE

WILLIAM O’NEAL,  
  
Appellant,  
  
v.  
  
SEATTLE CITY LIGHT,  
Respondent / Employing Department.

CSC No. 13-01-001  
  
**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
DECISION**

**I. SUMMARY OF DECISION.**

Seattle City Light had more than just cause to support the three-day disciplinary suspension imposed on the appellant, William O’Neal. Accordingly, Mr. O’Neal’s appeal is denied and his three-day suspension is upheld.

**II. PROCEDURAL BACKGROUND.**

On February 13, 2013, William O’Neal filed a Notice of Appeal to the Civil Service Commission, appealing his three-day disciplinary suspension imposed by his employer, Seattle City Light, which was communicated to Mr. O’Neal via a letter issued by Superintendent Jorge Carrasco on or about January 24, 2013. *NOA in CSC file, stamped received on Feb. 13, 2013; Ex. 17, Supt. Carrasco’s 1/24/13 letter.* On February 22, 2013, the undersigned Hearing Officer conducted a pre-hearing conference where the Appellant, William O’Neal, was in attendance and represented himself. The Respondent/Employing Department, Seattle City Light, was represented by its Employee Relations Manager,

**FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND DECISION: O’NEAL/CITY  
LIGHT – CSC APPEAL NO. 13-01-001**

1 Heather Proudfoot. The participants discussed a process to review and exchange  
2 documentary evidence (a brief discovery process), potential witnesses, potential exhibits,  
3 deadlines, hearing dates and other procedural issues. City Light did not raise any  
4 procedural objections that could prevent the hearing from going forward, such as timeliness  
5 and the like. The participants confirmed that they each received the prehearing conference  
6 notice, that they were prepared, and actively engaged the Hearing Officer with procedural  
7 questions as the conference progressed.

8 During the pre-hearing conference, the Hearing Officer explained that in accord  
9 with CSC Rule 5.31(A), Respondent/City Light bears the burden of proof to support the  
10 disciplinary action challenged in this appeal. Based on the substance of the pre-hearing  
11 conference and information in the appeal file, the Hearing Officer entered a pre-hearing  
12 Order, issued on February 22, 2013, which established that the sole question on appeal  
13 would be whether Appellant's disciplinary suspension was 'for just cause'; set a hearing  
14 date; and explained a streamlined discovery process through which the parties could  
15 exchange relevant records and documentary evidence to prepare for the hearing. The pre-  
16 hearing order expressly stated that "in the event either party should believe necessary  
17 documents or information are/is being inappropriately withheld or delayed, the issue should  
18 be brought to the attention of Teresa Jacobs, the Commission's Administrative Staff  
19 Assistant, or Jennifer Greenlee, the Commission's Executive Director, who will contact the  
20 Hearing Officer, so that a discovery order can be issued resolving the dispute." Neither  
21 party raised any discovery issues before or during the hearing. Neither party ever asserted  
22 that the other was improperly withholding access to any materials needed to prepare for the  
23 appeal hearing.

24 Initially, the hearing was set to commence on Thursday, March 21<sup>st</sup>, but unforeseen  
25 circumstances caused the city's representative to request a delay, and by agreement of the  
26 parties, the hearing date was rescheduled to begin on Monday, April 8, 2013. The hearing  
spanned April 8<sup>th</sup> and 9<sup>th</sup>, and the parties were able to present their respective cases through  
a number of exhibits and witnesses.

The following individuals presented testimony under oath during the appeal hearing:

1. Fanny Nguyen, Mr. O'Neal's immediate Safety Supervisor;

2. Barry Wills, Mr. O’Neal’s Safety Manager;
3. Jorge Carrasco, Superintendent, Seattle City Light;
4. Janis Kawamura, Strategic Advisor, for SCL Human Resources;
5. Davonna Johnson, Human Resource Officer for SCL;
6. Everett Tawney, Senior Safety and Health Specialist;
7. William O’Neal, the appellant, Senior Safety and Health Specialist;
8. Tom Palmer, Senior Safety and Health Specialist;
9. Dustin Hawkins, Senior Safety and Health Specialist;
10. Kevin Davis, Mr. Hawkins’ Safety and Health Supervisor.

The first five witnesses testified on behalf of the Respondent-department, Seattle City Light; the following four witnesses testified on behalf of the appellant, Mr. O’Neal; the last witness listed, Mr. Davis, was called by SCL as a rebuttal witness. Mr. Wills and Ms. Nguyen were re-called by SCL as rebuttal witnesses.

At the conclusion of the hearing, the Hearing Officer granted the parties’ mutual request for additional time to submit post-hearing briefs. Copies of such documents were filed with the Commission staff in a timely manner. The City’s post-hearing brief included transcribed copies of the testimony provided at the hearing, in two parts labeled “App. A” and “App. B”. Where appropriate, this Decision makes reference to passages from such transcripts. The Commission staff maintains copies of all exhibits entered into evidence, copies of briefs, transcripts and other materials submitted by the parties of record, as well as a copy of a digital recording made at the hearing.

Based on the record established at the hearing, the undersigned Hearing Officer issues the following Findings of Fact and Conclusions supporting this Decision.

### III. FINDINGS OF FACT.

1. Mr. O’Neal was hired by Seattle City Light in Fall of 2008, to the position of Senior Safety and Health Specialist. *Ex. 1, offer letter dated October 30, 2008, with Mr. O’Neal’s signature accepting position on November 3, 2013.*

2. As a Senior Safety and Health Specialist, Mr. O’Neal’s offer letter explained that he

1 held a number of responsibilities unique to individuals hired to promote safety through the  
2 department, including without limitation the responsibility to “ensure utility compliance  
3 with safety and health regulations through managers and line supervisors, investigate,  
4 evaluate and analyze safety conditions, accidents and hazards.” *Ex. 1, 2<sup>nd</sup> paragraph.*

5 3. Mr. O’Neal’s position duties require him to “plan, organize, coordinate and conduct  
6 training programs and to teach, promote and reinforce safety practices and working  
7 conditions in varied situations for all employees.” *Ex. 2, Job Posting Details for Senior  
8 Safety and Health Specialist.* Of particular significance in this appeal, Mr. O’Neal’s  
9 responsibilities as a Senior Safety and Health Specialist includes ‘conducting front line risk  
10 management actions to protect the utility from litigation.’ *Ex. 2.*

11 4. The Expectation Statement used for Mr. O’Neal’s Performance Review Program,  
12 signed by Mr. O’Neal and his interim supervisor on April 24, 2009, specifies a number of  
13 expectations specific to his position as a Senior Safety Specialist, including without  
14 limitation: Washington State Driving laws are expected to be followed at all times; you  
15 will be familiar with and uphold all City of Seattle and SCL policies and procedures as well  
16 as the “Work Place Expectations” and that you will set an example in safety by following  
17 all personal protective equipment requirements including safety driving; and that all  
18 primary and secondary traffic laws will be followed at all times, noting that ‘intentional  
19 violation of primary and or secondary traffic laws will result in disciplinary action up to and  
20 including termination.’ *Ex. 3.*

21 5. Seattle City Light has long had a Safe Driving Policy, DPP II-307, which covers all  
22 SCL employees during the course of their employment and while using city-owned vehicles  
23 as part of city business. *Ex. 4.* The Safe Driving Policy includes language that requires all  
24 SCL employees to “be knowledgeable about and comply with all applicable traffic laws”  
25 and to “report all collisions promptly.” *Ex. 4, p. 1.*

26 6. Seattle City Light Workplace Expectations regarding Safety are applicable to all

1 employees and provide in relevant part: accept safety as a personal responsibility;  
2 understand and comply with applicable government and safety regulations; and “Report all  
3 accidents, injuries, or hazardous conditions to your supervisor immediately.” *Ex. 5.*

4 7. Seattle City Light has issued specific instructions that employees are to follow in the  
5 event they are involved in a vehicle collision while on city business. These are part of the  
6 utility’s “Motor Vehicle Accident Program” and are available on SCL’s ‘inweb’ system  
7 (the utility’s online resource available to all employees), and copies are also found in city  
8 vehicles. *Testimony of Ms. Nguyen; Exs. 6 and 7.* The instructions expressly direct  
9 affected employees to “Promptly contact the appropriate law enforcement agency and your  
10 immediate supervisor by radio or telephone to conduct and document an on-scene  
11 investigation.” *Exs. 6, 7, item 4.* Vehicle Accident Packets are prepared and distributed by  
12 the utility’s Safety unit, and include the Motor Vehicle Collision Instructions shown on  
13 Exhibit 6. Copies of the Accident Packets are kept in glove compartments of City Light  
14 vehicles. Mr. O’Neal admitted that he had an accident packet available to him in his city  
15 vehicle at the time of his accident. *Transcript, App. B, page 88, line 18 to p. 89, line 22.*

16 8. The utility’s Accident Prevention Program Manual is also available to all employees  
17 via the ‘inweb’ computer-access system, and it includes a provision found at the top of the  
18 page which reads: “If an employee is involved in any injury or motor vehicle accident  
19 always: \* Immediately notify your supervisor.” *Ex. 8.*

20 9. At some point in or about January of 2012, per his request, Mr. O’Neil completed an  
21 EverSafe Safe Driver instructor course. He received other training in 2008 and 2009. Mr.  
22 O’Neal’s immediate supervisor, Fanny Nguyen, testified that he was going to be Seattle  
23 City Light’s safe-driving instructor, and that safe driving was his subject matter expertise.  
24 *Testimony of Ms. Nguyen, page 63, lines 7 – 24.* Given his courses on safe driving skills,  
25 Ms. Nguyen explained that part of Mr. O’Neal’s duties would be training employees on  
26 requirements and expectations found in the utility’s Policies and Procedures, Accident  
Packet information and other aspects associated with driver safety. *Id, p. 64.*

1 10. Mr. O’Neal never commented to Ms. Nguyen or any other of his superiors that he  
2 was unaware or in any way unfamiliar with the various Safety Policies and Procedures that  
3 he was responsible for knowing and applying in the course of his duties serving as a Senior  
4 Safety Specialist for Seattle City Light. *Testimony of Ms. Nguyen, Mr. Wills and Mr.*  
5 *O’Neal, App. B, pages 94-95.*

6 11. During the hearing, Mr. O’Neal admitted that he understood the importance of a  
7 contemporaneous on-scene investigation. *App. B, p. 91.* While Mr. O’Neal testified that he  
8 did not review City Light’s Safe Driving Policy before his accident, he conceded that he  
9 was well aware of the requirements contained in such policy, such as following driving  
10 laws and promptly reporting accidents to his supervisor. *App. B, pages 80-81, 88, 89.*

11 12. In the morning on September 10, 2012, Mr. O’Neal was driving a city vehicle – a  
12 white 2007 Ford Ranger pickup truck<sup>1</sup> – to a training event in Bellevue. He was late. In his  
13 own words, Mr. O’Neal testified that he “overshot the building” that was his destination.  
14 *App. B, p. 70.* He was driving on 110th Avenue NE where the lanes of travel headed in  
15 opposite directions are separated by a turn lane, just past NE 11th Street. *Ex. 10, Police*  
16 *Collision Report, illustration on page 3 of 3; Ms. Nguyen’s testimony, App. A, page 68; Mr.*  
17 *O’Neal’s testimony, App. B, page 70.*

18 13. Having missed his destination, Mr. O’Neal testified that he was going to turn into a  
19 driveway. *App. B, page 71.* He had another vehicle traveling behind him. Mr. O’Neal  
20 testified as follows: “I missed my turn and I went into the center lane to make a left-hand  
21 turn in a driveway, when he hit me. And if you – and we looked at the damage on his  
22 vehicle. The right side of his vehicle hit me. And as he pushed through me, he spun me  
23 around and I hit the opposite side of this truck, which put us door to door. We asked, "Are  
24 you all right?" He said, are we all right. So we secured the scene. I called 9-1-1.” *Id.*

25 \_\_\_\_\_  
26 <sup>1</sup> See Ex. 10, Traffic Infraction details.

1 14. Shortly after the accident, Mr. O’Neal received a call from a coworker, Kathy  
2 Prappas, who was also in Bellevue for the same training event. Mr. O’Neal testified: “I  
3 said, "Kathy, I was in a wreck." And she says, "Where are you at?" She told me – she asked  
4 me where I was at and I told her. She came out. The policeman was out by this time and he  
5 said, "Get your vehicles out of the street." So we moved our vehicles to the side. I was  
6 talking to the officer and he left me. And he went and talked to the other vehicle. And then,  
7 for some reason, he went and talked to Kathy Prappas. And then he went back and he talked  
8 to the other group. And I went to talk to Kathy and the officer told her that he believed it  
9 was my fault. So I go to the officer and I ask him, "Do you believe that this was my fault?"  
10 He said, "Yeah. I believe it's your fault. You have too much damage." I said, "Look, we was  
11 in the center of the street, and I was in front of him, and he hit me, and he spun me around."  
12 He said, "But you have too much damage." And I said, "Well, I'm not going to argue with  
13 you." And Kathy did ask me – Kathy Prappas said, "Are you going to call Fanny?" And I  
14 said, "Well, there's no need for her to come out here. I'm going to call her when I get back."  
15 And so the officer – you know, I took pictures and stuff. And the officer gathered  
16 information. I had all the information I needed to fill out a report. And I drove the vehicle  
17 back to the south service center.” *Mr. O’Neal’s testimony, App. B, pages 71, 72.*

18 15. Mr. O’Neal placed calls to at least two City Light employees from the scene of his  
19 accident, but he did not call his immediate supervisor, Ms. Nguyen, until at least two hours  
20 later, after he returned to the South Service Center. *Testimony of Mr. O’Neal and Ms.*  
21 *Nguyen; Ex. 14, page 2.*

22 16. The Bellevue Police Officer who responded to the accident scene issued a citation to  
23 Mr. O’Neal for making an unsafe u-turn. *Ex. 10.*

24 17. Photographs taken by Bellevue Police at the scene of the accident show that Mr.  
25 O’Neal’s vehicle was heavily damaged on the driver’s side, near the center of the truck,  
26 between the rear tire on the driver’s side and the driver’s door. *Ex. 10.* The photos do not

1 show any damage to the rear-end of Mr. O’Neal’s truck, which would seem to be likely if  
2 Mr. O’Neal’s version of events occurred.

3 18. The Narrative portion of the sworn Police Traffic Collision Report, prepared, signed  
4 and dated within hours of the accident on September 10, 2013, reads: “Driver 1, William  
5 O’Neal, said that he pulled into the shared turn lane and was going to pull over. I asked  
6 where he was pulling over to because there was no place to either pull over or make a turn.  
7 The library parking lot was closed off due to construction. He then said that he was going  
8 to make a U-Turn and entered the shared turn lane and stopped to wait for oncoming traffic.  
9 I told him that the damage to his car indicates he was perpendicular to veh. 2 when they hit  
10 and that he could not have been in the turn lane as he said he was. If he were in the turn  
11 lane as he said he would have been rear ended and not T-boned. Driver 2, Jose Macias  
12 Saldana, said that the car in front of him went to make a U-Turn and stopped in the road.  
13 There were no injuries reported. Driver 1 will be cited for unsafe U-turn.” *Ex. 10.* The  
14 Police Officer’s report was signed, under penalty of perjury.

15 19. Because Mr. O’Neal did not call Ms. Nguyen promptly after the accident, she was not  
16 able to conduct any contemporaneous on-scene investigation, the cars were moved from  
17 their point of impact, and because of construction in the area, some objects were moved  
18 into different positions by the time Ms. Nguyen was able to visit the scene. *Testimony of*  
19 *Ms. Nguyen.*

20 20. On or about September 18, 2013, the City’s Fleet Manager issued a determination that  
21 it was not economically reasonable to repair the city truck damaged in Mr. O’Neal’s  
22 accident, noting that the cost would be \$10,000, so the truck was decommissioned and  
23 prepped for auction. Accordingly, the city deemed the vehicle “totaled”. *Ex 12; Testimony*  
24 *of Ms. Nguyen, App. A, pages 81-82; Testimony of Mr. Wills, App. A, pages 135-136.*

25 21. On or about September 30, 2012, the owner and passengers of the vehicle involved in  
26 the accident with Mr. O’Neal filed a Claim for Damages, alleging property damage and



1 personal injuries. *Ex. 13.* The Claim form was signed, under penalty of perjury.

2 22. In the Claim for Damages, the driver of the vehicle involved in the accident with Mr.  
3 O’Neal, Jose Saldana, explained his version of the accident as follows: “I was driving Veh.  
4 2 headed North to work on the 110th Ave. NE. Veh. 1 was in front of me. When we both  
5 passed the NE 11th St., Veh. 1 slowly pulled to the right side. I thought he was going to  
6 stop or turn right. Therefore I kept driving at the same speed forward. All of the sudden,  
7 Veh. 1 turned left intersecting to my truck without signaling. At the same time, there was a  
8 car coming from the opposite direction. Veh. 1 stopped perpendicular to my truck, that’s  
9 why I hit the left side of its trunk and the force made it turn around and hit my truck back at  
10 the driver door. The car coming passed safely.” *Ex. 13, p. 2.*

11 23. In response to the Claim for Damages, DeVonna Johnson, Human Resources Officer,  
12 and Fanny Nguyen, Mr. O’Neal’s immediate Safety Supervisor, prepared a memo for the  
13 City’s Risk Management Division, which summarized Ms. Nguyen’s findings after  
14 investigating Mr. O’Neal’s vehicle accident. The utility’s investigation concluded that Mr.  
15 O’Neal’s accident was preventable, and that it would not have occurred if Mr. O’Neal had  
16 not attempted to turn. *Ex. 14, claim response dated October 16, 2012; Testimony of Ms.*  
*Nguyen and Ms. Johnson; Ex. 19, emails between Ms. Kawamura and Ms. Nguyen.*

17 24. Given the severity of the accident, which resulted in a totaled city truck, damage to a  
18 third-party’s vehicle, and generated a claim for personal injuries by passengers in the other  
19 vehicle, the utility’s “Comps Committee” reviewed the circumstances surrounding Mr.  
20 O’Neal’s accident to determine if some sort of employment action, including possible  
21 discipline, might be in order. *Testimony of Ms. Johnson, Ms. Kawamura.*

22 25. The “Comps Committee” – short for ‘comparables committee’ is made up of three  
23 people, Ms. Kawamura, a Strategic Advisor in the utility’s Human Resources office, and  
24 the two labor relations coordinators, who are the management representatives for all the 14  
25 unions at Seattle City Light. Davonna Johnson, through her role as the utility’s Human  
26

1 Resources Officer, is not a member, but always attends Comps Committee meetings. The  
2 purpose of the committee is to review incident investigation reports and treat issues  
3 consistently across the Department. *Testimony of Ms. Kawamura, App. A, page 200;*  
4 *Testimony of Ms. Johnson.* Ms. Johnson offered un rebutted testimony establishing that in  
5 her tenure as the utility's HR Officer, discipline has been imposed consistently. *App. B, p.*  
6 *67.*

7 26. In Mr. O'Neal's matter, the Comps Committee reviewed the police report and the  
8 utility's investigation report prepared after his accident and determined that the appropriate  
9 comparable situation would be where any other senior safety professional whose job it is to  
10 implement and enforce safety policies violated such rules. *Testimony of Ms. Kawamura,*  
11 *App. A, page 207.* The Comps Committee focused primarily on disciplinary actions taken  
12 since 2004, when Mr. Carrasco became the Superintendent, but she examined disciplinary  
13 logs running back almost 20 years, looking for comparables to Mr. O'Neal's situation. She  
14 only found a single incident involving another safety professional who was found to violate  
15 a safety policy. At some point before Mr. O'Neal's accident, a safety-professional co-  
16 worker, was found to be driving a city vehicle while talking on a mobile phone, in violation  
17 of new safety rules that she was partly responsible for training employees to follow. The  
18 Comps Committee recommended a one-day suspension for her safety rule violation. There  
19 was no accident in that case, there was no property damage, and there were no injuries to  
20 third parties. In Mr. O'Neal's case, the Comps Committee recommended a 3 (three) day  
21 disciplinary suspension. *Id., pages 207 – 218.*

22 27. Mr. O'Neal's Safety Manager, Mr. Wills, received and agreed with the Comps  
23 Committee's recommendation that a 3-day suspension was an appropriate level of  
24 discipline for Mr. O'Neal. *Testimony of Mr. Wills.*

25 28. On December 6, 2012, Safety Manager Barry Wills addressed a memo to Mr.  
26 O'Neal advising him that Mr. Wills was recommending a 3-day suspension, based upon  
Mr. O'Neal's violations of Seattle City Light policies and expectations concerning safe

1 driving that occurred in connection with Mr. O’Neal’s vehicle collision on September 10,  
2 2012. *Ex. 16*. In the appeal hearing, Mr. Wills credibly explained a wide range of reasons  
3 that justified his recommendation that Mr. O’Neal should receive a 3 day suspension,  
4 including: a) Mr. O’Neal failed to timely report the collision to his supervisor; b) safety  
5 professionals are required to set an example on safety matters, and safety professionals are  
6 and should be held to a higher standard than non-safety personnel; c) the extent of the  
7 property damage and claims of personal injury were important factors; d) failure to timely  
8 report prevented the utility from conducting its own on-site investigation and other  
9 measures to reduce harm; e) there was a discrepancy between evidence as shown in photos  
10 and Mr. O’Neal’s statement made to the police officer; f) Mr. O’Neal received a citation for  
11 an unsafe u-turn; g) inability to conduct a contemporaneous, on-scene investigation due to  
12 lack of any timely report to supervisor; and h) failure to follow safe driving practices.  
13 *Testimony of Mr. Wills, App. A, pages 142-148.*

14 29. Mr. Wills’ memo recommending a 3 day suspension was attached to another memo  
15 issued by DaVonna Johnson to Mr. O’Neal, providing him with notice of his opportunity to  
16 respond to the proposed disciplinary action. *Ex. 16*.

17 30. The disciplinary recommendation was based upon evidence and information that  
18 demonstrated Mr. O’Neal failed to comply with several policies, regulations and  
19 expectations related to safe driving. *Id.* Ms. Johnson’s memo explained that the proposed  
20 discipline “is consistent with City of Seattle’s Personnel Rules concerning Progressive  
21 Discipline (1.3.4A) in which ‘Endangering the safety of, or causing injury to, the person or  
22 property of another through negligence or intentional failure to follow policies or  
23 procedures” is considered one of the major disciplinary offenses warranting suspension,  
24 demotion or discharge.” *Id.*

25 31. Mr. O’Neal accepted his invitation to provide a response to his proposed discipline  
26 by scheduling a meeting with the Superintendent, who conducted a “Loudermill” meeting  
on January 11, 2013 where Mr. O’Neal came to provide his side of the story. Mr. O’Neal’s

1 Safety Manager, Mr. Wills, and Human Resources Officer, Ms. Johnson, were also in  
2 attendance. *Ex. 17; Testimony of Mr. Carrasco, Ms. Johnson, Mr. Wills.*

3 32. During the Loudermill meeting, Mr. O’Neal did not dispute that his accident was  
4 preventable. He admitted that he did not call his supervisor from the scene of the accident,  
5 but that he found time to place calls to other coworkers. Mr. O’Neal explained that he felt  
6 the proposed discipline was too harsh, given his clean record before the accident. *Id.*

7 33. The Superintendent considered Mr. O’Neal’s explanations, and decided to impose  
8 the recommended 3-day suspension. The Superintendent’s decision, and his basis for same,  
9 was issued in the form of a letter dated January 24, 2013. *Ex. 19.* On the issue of whether  
10 Mr. O’Neal genuinely believed that he had until the end of his workday to report the  
11 accident to his supervisor, the Superintendent observed that the paragraph from the policy  
12 cited by Mr. O’Neal: “*clearly leads with the phrase ‘As soon as possible’, and the Seattle*  
13 *City Light Workplace Expectations state that employees are responsible for reporting all*  
14 *accidents to their supervisor ‘immediately’. You called another safety supervisor, a co-*  
15 *worker and talked with another safety co-worker on site. There does not seem to be any*  
16 *justifiable reason for your delay in calling your supervisor.” Ex. 19, page 3.*

17 34. At the appeal hearing, Mr. O’Neal presented no evidence that would justify his  
18 failure to call his Supervisor, Ms. Nguyen, from the scene of his accident.

19 35. During his testimony at the hearing, Mr. Carrasco credibly and convincingly  
20 testified that, as Superintendent, he values input from employees provided at Loudermill /  
21 pre-disciplinary ‘hearings’/meetings and that Mr. O’Neal’s situation warranted serious  
22 discipline due to the significant loss of property, noting the totaled vehicle involved in the  
23 accident; the potential for injuries due to the accident; the accident was preventable; and the  
24 fact that Mr. O’Neal is a safety professional who did not follow procedures that he expected  
25 someone in his role to follow, particularly his failure to notify his supervisor right away.  
26 *Testimony of Mr. Carrasco, App. A, pages 175-177.* In his testimony, it was apparent that

1 Mr. Carrasco was disappointed how Mr. O’Neal was not more accepting of responsibility  
2 for what happened, for his involvement in a preventable accident that caused significant  
3 damage and possible personal injuries, especially given his role and responsibilities as a  
4 Safety professional for the utility. Mr. Carrasco explained: “I thought the seriousness of  
5 the incident was fairly self-evident.” *Id.*, at 176. When asked if he viewed the situation  
6 involving use of a cell phone while driving as the same as having an accident where there is  
7 substantial damage and potential personal injury, Mr. Carrasco said no, while they are both  
8 unacceptable, they are not the same. *Id.*, at 187.

9 36. When he filed his Notice of Appeal initiating the instant matter before the  
10 Commission, Mr. O’Neal wrote that his requested remedy was “a written reprimand.” *See*  
11 *Notice of Appeal, received February 13, 2013, at page 2.* During the appeal, Mr. O’Neal  
12 changed his position and argued that he should not even receive a written reprimand.  
13 Instead, he argued his department should be reprimanded, apparently for failing to have  
14 employees sign a form confirming that their supervisor reviewed the Safe Driving Policy  
15 with them.<sup>2</sup>

16 37. Mr. O’Neal called several witnesses, seeking to establish that Safety Supervisors  
17 were not complying with certain provisions of DPP II-307, City Light’s Safe Driving  
18 Policy, included in the record as Exhibit 4. Item 3 on page 3 of the Policy explains that unit  
19 supervisors are to review the Safe Driving Policy with new employees in their first week,  
20 and that both the supervisor and the employee shall sign documentation confirming such  
21 review. While Mr. O’Neal established that he never signed such documentation, he  
22 admitted that he understood the requirements found in such policy, and that he was required  
23 to comply with workplace expectations and other department policies promoting safe

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24 <sup>2</sup> “I’m saying, “Look, I don’t want to admit that I’m guilty.” I said, “Yes. I had a vehicle accident. That’s a fact.  
25 Was it preventable? Yes. That’s a fact.” But for me to say that I caused this accident, I can’t say that. And so I  
26 wanted the due process to go through. They didn’t want to wait, so they suspended me before the due process.  
But if you look at the totality of the evidence, which I found out after, when I first said that I believed that I  
should have gotten a letter of reprimand, after I reviewed everything, I’m feeling I shouldn’t even get a letter  
of reprimand. I believe my department should be reprimanded...” *Mr. O’Neal’s opening statement, App. A,*  
*page 28; See also Mr. O’Neal’s Post-Hearing Brief.*

1 driving practices and procedures. *App. B, pages 80-81, 88, 89, and 91.* Any argument to  
2 the contrary is disingenuous and not supported by the evidence. In fact, all of the witnesses  
3 called by the appellant who were asked about signing a document confirming their review  
4 of the Safe Driving Policy could not recall signing such acknowledgement and similar  
5 topics, but they verified that they knew they were supposed to abide by safe driving laws or  
6 policies, and/or that they should call their supervisor if they were involved in an accident.  
7 *Tawney, App. B, pages 19-20; Palmer, App. B, pages 112-113; and Hawkins, App. B, pages*  
8 *122-124.*

8 38. During the hearing, Mr. O’Neal questioned Superintendent Carrasco about whether  
9 his supervisor’s alleged failure to review the utility’s Safe Driving Policy with him, and  
10 have him sign it acknowledging such review, would be a mitigating factor in considering a  
11 proposed disciplinary action. The Superintendent explained that he expected all Safety  
12 professionals to be familiar with all of the utility’s safe driving policies. Mr. O’Neal’s  
13 response at the end of the dialogue is disturbing, in that it indicates an unwillingness or  
14 unreasonableness on his part to grasp the significance of Safety Professionals being fully  
15 conversant and aware of relevant safety policies. The exchange went as follows:

16 Mr. O’Neal: My question is, this policy requires that someone in my  
17 supervision go over this policy with me and have me sign it. I'm saying, if it  
18 did not happen, is that a mitigating factor?

19 Mr. Carrasco: Well, if you look at the safe driving policy, I'm assuming, as a  
20 safety professional, you've looked at it. Have you looked at it?

21 Mr. O: Now I have.

22 Mr. C: Okay. So I hope you looked at it from the beginning because, if  
23 you're a safety professional, I would hope you would have wanted to see this  
24 policy. I would expect every safety professional to have reviewed the policy  
25 and made sure that they were conversant with it. So there is a mutual  
26 expectation that the employee, who's a safety professional, would take the  
time to review the policy and then anything else we may need to do as an  
organization to ensure that safety is being followed goes beyond that. But at  
a minimum, I expect every safety professional to be familiar with safety  
policies. So the fact that, if you say this didn't happen, in my mind, at least,

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doesn't excuse not being familiar with the utility safety practices and safety policies, particularly for a safety professional. Does that sound reasonable to you?

Mr. O: No.

*Cross Examination of Superintendent Carrasco by Mr. O'Neal, App. A, pages 188-189.*

Any factual matters set forth in the foregoing or following sections are hereby adopted by the Hearing Officer as findings of fact, and incorporated into this section as such.

**IV. CONCLUSIONS.**

1. Under CSC Rule 5.31, in the case of a disciplinary suspension such as that at issue in the instant appeal, the employing-department bears the burden of establishing that a preponderance of the evidence shows that the challenged suspension was with justifiable cause.
2. Based on the record, including without limitation the Findings of Fact set forth above, Seattle City Light presented clear and convincing evidence, far beyond the mere preponderance of the evidence required, to establish that it had justifiable cause to impose a 3-day disciplinary suspension on the appellant, Mr. O'Neal.
3. The appellant failed to rebut City Light's evidence of conduct and violations of applicable rules and procedures that served to justify and support his suspension.
4. While the appellant sought to argue that all employees in the utility should be held to the same standards on safety related matters, and that because lineworkers and other non-safety-office professionals within the utility had accidents and were not suspended, his arguments run counter to common sense expectations that Safety Professionals should set the tone and serve as examples for non-safety personnel, especially when handling

1 situations that involve long-established City Light driver safety policies and procedures.  
2 The appellant offered no evidence that would support a claim of disparate treatment.  
3 Instead, the record established that there were only two incidents over many years where  
4 safety professionals have been the subject of disciplinary review processes based on  
5 violations of safety rules and policies. Mr. O’Neal’s is the only such situation that involved  
6 substantial property damage, personal injuries, and violations of safety policies and  
7 expectations.

8 5. Seattle Personnel Rule No. 1.3.4(A) provides a list of at least 18 “major disciplinary  
9 offenses” for which a verbal warning or written reprimand is not appropriate, in the absence  
10 of mitigating circumstances. “Endangering the safety of, or causing injury to, the person or  
11 property of another through negligence or intentional failure to follow policies or  
12 procedures” is specifically included as a “major disciplinary offense.” PR 1.3.4(A)(13).

13 6. By engaging in actions, or neglecting to make better choices or comply with basic  
14 driver safety laws, expectations and policies, which resulted in a preventable accident  
15 involving his City-truck on September 10, 2012, Mr. O’Neal clearly endangered his own  
16 personal safety, as well as that of others, and reportedly caused injury to the passengers in  
17 the other vehicle involved in his accident. He totaled the City truck, and damaged the  
18 property of the landscaping company that owned the other truck. Mr. O’Neal presented no  
19 compelling evidence of mitigating circumstances. His conduct constitutes a “major  
20 disciplinary offense” for which a suspension is just, and for which neither a verbal warning  
21 or written reprimand are appropriate.

22 7. By failing to contact his supervisor, Ms. Nguyen, from the scene of his accident, Mr.  
23 O’Neal deprived himself of the opportunity to credibly demonstrate that conditions at the  
24 scene, the driver of the other vehicle, or some other factor besides his own negligence was  
25 the primary cause of the accident. A contemporaneous, on-scene investigation could have  
26 aided Mr. O’Neal and his employer, the City of Seattle, in defending itself in a potential  
personal injury case. Ms. Nguyen could have obtained detailed statements or other



1 evidence that could refute or aid in the defense of subsequent claims of personal injury,  
2 which did in fact follow the accident. The Driver Safety Policy requirement, and City Light  
3 Workplace Expectations that require employees to contact their supervisors when they are  
4 involved in accidents, is/are well-founded. This is especially true where the employee, like  
5 Mr. O’Neal, denies responsibility for the accident, and presumably should have had nothing  
6 to hide. By calling several other fellow-employees from the scene of the accident, and  
7 deliberately neglecting to call his supervisor until after returning to his office building, Mr.  
8 O’Neal left the clear impression that he had something to hide. In his testimony, he  
9 minimized the situation, and sought to shift blame onto previous supervisors who might  
10 have failed to obtain his signature on a policy review form. His excuses and arguments  
11 were not well-grounded, and were not supported by photos taken of vehicles involved in the  
12 accident.

13 8. As a safety professional – especially one deemed a ‘subject matter expert’ in the field  
14 of driver safety – Mr. O’Neal, more than virtually any other City Light employee, should be  
15 especially well qualified to point to forensic, situational, and other forms of evidence  
16 collected or contemporaneously observed at the scene of the accident to support his version  
17 of events. Instead, Mr. O’Neal continued to proffer a confusing tale of how his car was hit  
18 by a vehicle that was following him in the center lane where he claims he was located,  
19 denying that he ever claimed to have been rear-ended, but yet somehow he was spun around  
20 by the impact of the other truck. The pictures from the scene may not speak a thousand  
21 words, but it only takes a few words to describe the damage to Mr. O’Neal’s car – T-Boned.  
22 There is no evidence in the record to show that the other vehicle somehow maneuvered to  
23 Mr. O’Neal’s left side (in the face of oncoming traffic) and then mysteriously smashed into  
24 the driver’s side of his truck, leaving the damage depicted in the police photos. There is no  
25 evidence that the other truck made contact with his truck from behind, causing him to whip  
26 around. Instead, the Police Officer’s Collision report stands as a sworn and credible  
summary of the incident, which was based on the Officer’s observations at the accident  
scene as well as interviews with Mr. O’Neal and the driver of the other vehicle. The  
preponderance of evidence in the record establishes that Mr. O’Neal was attempting to

1 make an unsafe u-turn at the time he was impacted by the other vehicle.

2 9. The preponderance of the evidence shows that Mr. O’Neal knew, or should have  
3 known, about applicable driver safety policies and expectations that he failed to follow on  
4 the day of his accident. The requirement that he contact his supervisor from the scene of an  
5 accident was not a footnote buried in an obscure bureaucratic publication. Instead, it was a  
6 policy and expectation repeated in numerous written materials available to City Light  
7 employees, but more importantly, it was prominently listed near the top of Motor Vehicle  
8 Collision Instructions provided in the “Accident Packet” that Mr. O’Neal admits he had  
9 available to him in his truck at the time of the accident. Item 4 reads: “Promptly contact  
10 the appropriate law enforcement agency and your immediate supervisor by radio or  
11 telephone to conduct and document an on-scene investigation.” Mr. O’Neal was unable to  
12 offer any legitimate excuse or other explanation for ignoring his duty to call his supervisor  
13 so she could conduct an on-scene investigation.

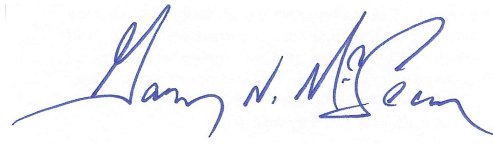
14 10. Given the severity of the damage caused by the accident, the personal injuries claimed  
15 as a result, Mr. O’Neal’s expectations and responsibilities as a Senior Safety Specialist, and  
16 other factors detailed in Mr. Carrasco’s determination of discipline, a 3-day suspension is  
17 supported by just cause, especially where un rebutted evidence demonstrates that the  
18 appellant was the only Safety Professional in 20 years of records who was involved in a  
19 serious accident that involved violations of Safety policies and procedures. The  
20 Superintendent is correct in holding Safety professionals to a higher standard than non-  
21 safety personnel. Mr. O’Neal offered no credible or convincing evidence as to why such  
22 expectation is unreasonable or unwarranted. To the contrary, the record established that  
23 Mr. O’Neal was personally informed in 2009 that as a Senior Safety Specialist, “you will  
24 set an example in safety by following all personal protective equipment requirements  
25 including safety driving.” *Finding 4, Ex. 3*. Unfortunately, in his accident and his response  
26 thereto, Mr. O’Neal failed to do so.

**V. DECISION.**

Based on the record, and for the reasons set forth above, Mr. O’Neal’s appeal of his 3-day disciplinary suspension is denied. Seattle City Light had far beyond justifiable cause to impose such sanction. The Hearing Officer sincerely hopes that the rehabilitative purpose of employee discipline is served in this matter, and that the appellant and his coworkers will all recommit themselves to serving as examples to fellow employees in all matters related to safety in the workplace, particularly driver safety.

ISSUED this 13<sup>th</sup> Day of June, 2013.

FOR THE CITY OF SEATTLE  
CIVIL SERVICE COMMISSION



Gary N. McLean, Hearing Officer

Within ten (10) days following the date of the Hearing officer’s findings of fact, conclusions of law, and order, any party may file with the Commission a petition for review of all or any part of the examiner’s findings of fact, conclusions of law, and order, or of any other part of the record or proceedings, including rulings upon all motions or objections. Parties must clearly state the reason for review.