



Public Service Commission

State of North Dakota

COMMISSIONERS

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12 July 2011

Kindred Plumbing & Heating
302 Woodlawn Dr.
Kindred, ND 58051

Re: Third Party Damage Complaint
Case No. PU-11-298

Dear Mr. Merhiy:

Enclosed is a copy of a Third Party Damage Complaint against Kindred Heating & Plumbing received by the ND Public Service Commission on June 20, 2011 from Otter Tail Power Company. We are forwarding this complaint for your response by July 28, 2011.

Please provide in writing your account of the event. Your response may also address the criteria that the Commission staff uses in determining if a civil penalty should be proposed. See enclosed document.

Staff will review the complaint, your response and other available information to determine how to proceed. Further action may include discussions and negotiations to develop a resolution, filing a formal complaint requesting a penalty, or recommending to the Commission that no further action be taken and the case closed. This case may move forward in conjunction with the Third Party Damage Complaint against Kindred Heating & Plumbing in case no. PU-10-649.

If you have any questions please call or e-mail me at 701-328-4077 or pfahn@nd.gov.

Best regards,

A handwritten signature in cursive script that reads "Patrick Fah".

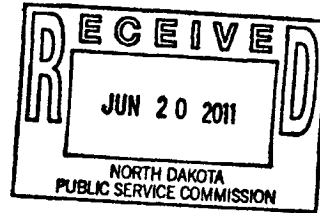
Patrick Fah
Director, Compliance and Competitive Markets

Enclosures
C: Scott Fritz, Otter Tail Power Company

2 **PU-11-298** Filed: 7/12/2011 Pages: 5
Letter to respondent enclosing third party damage complaint



THIRD PARTY DAMAGE COMPLAINT
Public Service Commission
SFN 59067 (7-09)



PART A – WHO IS SUBMITTING THIS COMPLAINT

Information Being Submitted By <input type="checkbox"/> Individual <input checked="" type="checkbox"/> Company	Company/Organization Otter Tail Power	Person Filing Information Scott Fritz	Position One Call Administrator	
Address of Person Filing Information 215 South Cascade St.	City Fergus Falls	State Mn	Zip Code 56537	
Telephone Number 218-739-8521	Email Address sfritz@otpc.com	Date 6/20/11		

PART B – DATE AND LOCATION OF THE EVENT

Date of Event 6/10/11	Description of Event Dug in culvert without locate	Address of the Excavation and/or Damage 255 Dakota Street	
County Cass	City Kindred	State ND	Zip Code 58051

PART C – WHO ALLEGEDLY VIOLATED THE ONE-CALL REGULATIONS

Name of Excavator Kindred Plumbing and Heating	Telephone Number 701-428-3191		
Address 302 Woodlawn Dr.	City Kindred	State ND	Zip Code 58051
Name of Entity for Which Excavation Was Performed Kindred School	Telephone Number 701-428-3177		
Address 255 Dakota Street	City Kindred	State ND	Zip Code 58051

PART D – ADDITIONAL INFORMATION

Was a locate requested from North Dakota One-Call? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown		Locate Ticket Number	Start Date on Ticket
Did excavator wait until the start date/time on the ticket before commencing excavation? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> N/A			
Were buried facilities exposed by hand or non-invasive equipment prior to excavation? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A			

PART E – FACILITY INVOLVED

Type of Facility Involved Buried Power Lines	Operator of Facility and Contact Person (if known) Otter Tail Power Company
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PART F – MARKING

Were facilities marked?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown	<input type="checkbox"/> N/A
Were utility/facility marks visible in the area of excavation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> N/A
Were the utility/facilities marked correctly?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> N/A
Was the marking complete prior to the start time on the ticket?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> N/A
Did the excavator pre-mark with white paint?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> N/A
Was the facility marked accurately (within 18 inches)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> N/A
Did the excavator use reasonable care to maintain locate marks for the life of project?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> N/A

PART G – DAMAGE (if applicable)

Fatalities	Injuries	Length of Hospitalization, If Applicable
Estimated Value of Property Damage: \$		Number of Customers Affected
Damaged In <input type="checkbox"/> Public <input type="checkbox"/> Private		Photos of Damaged Facility <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (if yes, please include copies)
Additional Information		

PART H – SIGNATURE

Signature of Person Filing Complaint Scott Fritz	Date 6/20/11
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Please include additional documents and photos, if applicable.

***If you are filing on behalf of a company, please provide information supporting your authority to file this complaint.**

Send Completed, Original Complaint To:
 Public Service Commission
 Testing and Safety Division
 600 E Boulevard Ave Dept 408
 Bismarck ND 58505-0480
 Telephone: (701) 328-2400

Email to the PSC

Contractor was digging in a culvert in an area without a locate. Contractor installed a culvert directly over the top of 3 phase primary and 8-10' from a 3 phase pad mount transformer. OTP Service Rep Dwight Ogren was on site. Please feel free to call him for specific details. 701-388-7342. Contractor DID have a locate ticket, but not for where the culvert was placed. #11031614.

D PROPOSED CIVIL PENALTIES:

- 1) The following criteria must be used by Commission staff to determine if a civil penalty should be proposed when filing a formal complaint:
 - a) The nature, circumstances and severity of the complaint;
 - b) The degree of suspected fault on the part of the respondent;
 - c) The respondent's history of prior violations or complaints;
 - d) The respondent's ability to pay;
 - e) Any good faith effort by the respondent in attempting to achieve compliance; and
 - f) The effect the penalty may have on the respondent's ability to continue in business.

The criteria may also be used by Commission staff in making a recommendation to the Commission regarding a proposed penalty requested in a formal complaint filed by entity other than staff, and by the Commission in determining whether or not to impose a penalty and the amount of that penalty.

- 2) North Dakota Century Code section 49-07-01.1. provides a civil penalty not to exceed five thousand dollars for violations of the One Call law. Any penalty may be compromised by the commission and may be recovered in a civil action in district court.