



# Public Service Commission

## State of North Dakota

### COMMISSIONERS

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Fax: 701-328-2410  
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11 July 2012

Tooz Construction, Inc.  
4038 3<sup>rd</sup> Ave W  
Dickinson, ND 58601-8544

Re: Third Party Damage Complaint  
Case No. PU-12-527

Dear Tooz Associate:

Enclosed is a copy of a Third Party Damage Complaint against Tooz Construction (Tooz) received by the ND Public Service Commission on June 19, 2012 from Century Link.

Please respond to the Commission by **July 27, 2012**, with your written account of the event. Your response, the complaint, and other available information will be reviewed to determine whether Commission staff will file a formal complaint.

Your response should also address the following criteria used to determine the amount of civil penalty, if any, to be recommended by Commission staff as part of a formal complaint:

- a) The nature, circumstances, and severity of the complaint;
- b) The degree of suspected fault on the part of Kindred;
- c) Kindred's history of prior violations or complaints;
- d) Kindred's ability to pay;
- e) Any good faith effort by Kindred in attempting to achieve compliance; and
- f) The effect the penalty may have on Kindred's ability to continue in business.

If you have any questions please call or e-mail me at 701-328-4052 or [camarohl@nd.gov](mailto:camarohl@nd.gov).

Best regards,

Christopher Marohl  
Public Utility Analyst

Enclosures  
C: Joe Shepherd, Century Link

2 PU-12-527 Filed: 7/11/2012 Pages: 4  
Letter enclosing third party damage complaint



### THIRD PARTY DAMAGE COMPLAINT

Public Service Commission  
SFN 59067 (12-11)

# RECEIVED

JUN 19 2012

## PUBLIC SERVICE COMMISSION

### PART A - WHO IS SUBMITTING THIS COMPLAINT

Information Being Submitted By <input type="checkbox"/> Individual <input checked="" type="checkbox"/> Company*	Company/Organization CenturyLink	Person Filing Information Joe Shepherd	Position Area Plant Supervisor	
Address of Person Filing Information 1101 16th Street NE	City Mandan	State ND	Zip Code 58554-2201	
Telephone Number 701-222-7244	Email Address joe.shepherd@centurylink.com		Date 06/19/2012	

### PART B - WHO ALLEGEDLY VIOLATED THE ONE-CALL REGULATIONS

Name of Excavator Tooz Construction ( Tracy Tooz)		Telephone Number 701-225-4431	
Address 4038 3rd Avenue West	City Dickinson	State North Dakota	Zip Code 58601
Name of Entity for Which Excavation Was Performed Dickinson Energy Park, LLC		Telephone Number 701-225-4431	
Address 4038 3rd Avenue West	City Dickinson	State ND	Zip Code 58601

### PART C - DATE AND LOCATION OF THE EVENT

Date of Event 06/19/2012	Address of the Excavation and/or Damage Highway 22 North west side of road between 34th and 33rd Street		
County Stark	City Dickinson	State ND	Zip Code 58601

### PART D - FACILITY INVOLVED

Type of Facility Involved 200 pair cable plant	Operator of Facility and Contact Person (if known)		
Address	City	State	Zip Code
Telephone Number	Email Address (if known)		
Brief Description of Facility Involved Main 200 pair cable that feeds Hwy 22 north CenturyLink customers			

**PART E – DAMAGE (if applicable)**

Fatalities	Injuries	Length of Hospitalization, If Applicable
Estimated Value of Property Damage: \$ \$10,000		Number of Customers Affected 150 to 200
Damaged Within <input type="checkbox"/> Public Property <input checked="" type="checkbox"/> Private Property		Photos of Damaged Facility <input type="checkbox"/> Yes <input type="checkbox"/> No (If yes, please include copies)

**PART F – EXCAVATION**

Was a locate requested from North Dakota One-Call?	
<input checked="" type="checkbox"/> Yes    Locate Ticket Number <input type="checkbox"/> No <input type="checkbox"/> Unknown	Start Date on Ticket: <input type="text"/>
Did excavator wait until the start date/time on the ticket before commencing excavation?	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input 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 G – MARKING**

Were facilities marked?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Were utility/facility marks visible in the area of excavation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Were the utility/facilities marked correctly?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Was the marking complete prior to the start time on the ticket?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Did the excavator pre-mark with white paint?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Was the facility marked accurately within 24 inches horizontally?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Did the excavator use reasonable care to maintain locate marks for the life of project?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A

**PART H – DESCRIPTION OF EVENT**

<p><b>Description of Event</b></p> <p>Contractor was grading the area that was located. Contractor stated that the locates were correct but he was doing work in an area that was marked. Contractor had asked for CenturyLink to move facilities for the construction but he didn't wait until this was complete.</p>
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<b>Description of Event Continued</b>
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**PART I – SIGNATURE**

<b>Signature of Person Filing Complaint</b> Joe Shepherd	<b>Date</b> 06/19/2012
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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  
600 E Boulevard Ave Dept 408  
Bismarck ND 58505-0480  
Telephone: (701) 328-2400

**Email to the Commission**