



Public Service Commission  
State of North Dakota



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August 11, 2014

Robert Lindberg, President  
Northern Excavating Co., Inc.  
PO Box 1108  
Jamestown, ND 58402-1108

Dear Mr. Lindberg:

Enclosed are copies of Third Party Damage Complaint ("Complaints") against Northern Excavating Co., Inc. ("Northern"), received by the North Dakota Public Service Commission ("Commission") on August 5, 2014, from Ryan Schmaltz of One Call Concepts, Inc., regarding a past due balance with the notification center, and Craig Lohstreter of Montana-Dakota Utilities Co, regarding an incident approximately 700 feet northwest of 3500 Apple Creek Road in Bismarck.

Please respond to Darrell Nitschke, Executive Secretary, North Dakota Public Service Commission, by **August 25, 2014**, with your written account of these events, including the applicable One Call locate ticket number(s) for work performed at the address indicated. Your response, the complaints, and other available information will be reviewed to determine whether Commission staff will file formal complaints.

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 any formal complaints:

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

North Dakota Century Code section 49-07-01.1 provides for a civil penalty not to exceed twenty-five thousand dollars for each violation of the One Call law.

Please contact me at 701-328-4188 or at [jprescott@nd.gov](mailto:jprescott@nd.gov) with any questions regarding this correspondence.

Sincerely,

Julie Prescott  
Compliance and Competitive Markets Division

Enc: Third Party Damage Complaints  
c: Ryan Schmaltz, One Call Concepts, Inc.  
Craig Lohstreter, Montana-Dakota Utilities Co.

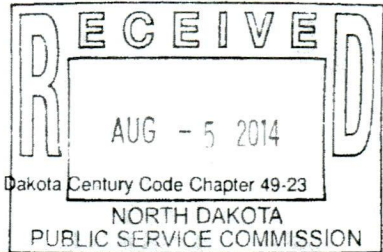
- 65 GS-14-230 Filed 06/30/2015 Pages: 6  
Exhibit B21  
Public Service Commission
- 65 GS-14-229 Filed 06/30/2015 Pages: 6  
Exhibit B21
- 64 GS-13-886 Filed 06/30/2015 Pages: 6  
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- 65 GS-13-885 Filed 06/30/2015 Pages: 6  
Exhibit B21
- 64 GS-13-884 Filed 06/30/2015 Pages: 6  
Exhibit B21



# ND ONE-CALL COMPLAINT

Public Service Commission  
SFN 59067 (1-14)

To allege a violation of the One-Call Excavation Notice System Law: North Dakota Century Code Chapter 49-23



## PART A - WHO IS SUBMITTING THIS COMPLAINT (COMPLAINANT)

Company/Person Montana-Dakota Utilities Co/Craig Lohstreter	Street Address 909 Airport Road	City Bismarck	State and Zip Code ND 58504
Telephone and Cell Phone Number 701-224-5815 / 701-220-6946	Email Address craig.lohstreter@mdu.com		Date 8/5/14
<input checked="" type="checkbox"/> Complainant is willing and able to testify on the complaint if matter goes to formal hearing			

## PART B - WHO VIOLATED THE ONE-CALL REGULATIONS (RESPONDENT)

Company/Person Northern Excavating Co., Inc.	Street Address 3420 82nd Avenue SE	City Jamestown	State and Zip Code ND 58401
Telephone and Cell Phone Number 701-252-5967	Email Address		

## PART C - ALLEGED VIOLATION

<input type="checkbox"/> Operator failed to provide or update the information provided to the notification center on a timely basis <input type="checkbox"/> Excavator failed to provide excavation or location notice at least 48 hours before beginning any excavation <input type="checkbox"/> Excavator failed to provide required information in excavation or location notice <input type="checkbox"/> Notification center failed to transmit the notice to every operator that has an underground facility in the area of the excavation <input type="checkbox"/> Notification center failed to inform the excavator of the names of operators of underground facilities in the area <input type="checkbox"/> Operator failed to locate and mark underground facility within 48 hours <input type="checkbox"/> Excavation started prior to underground facility locate <input type="checkbox"/> Operator failed to mark underground facility within 24 inches horizontally <input type="checkbox"/> Excavator failed to renew excavation or location request prior to the expiration of the twenty-one-day period <input checked="" type="checkbox"/> Excavator failed to conduct the excavation in a careful and prudent manner to avoid damage of underground facilities <input type="checkbox"/> Excavator failed to maintain the markings during excavation <input type="checkbox"/> Other (identify the specific section of NDCC Chapter 49-23) _____
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Location of Violation:  
Approximately 700 feet northwest of 3500 Apple Creek Road, Bismarck, ND

Date and Time of Violation:  
5/28/2014 3:30 PM

Description (summarize the observations on which you rely to allege the violation) *If more space is required, please provide the description on a separate page.*  
The contractor had a locate. Contractor was digging close to an energized three phase primary line with a backhoe, and was not using due care. Contractor contacted the wires and damaged all three conductors. All three conductors had to be switched out and repaired.

## PART D - DAMAGE

Fatalities None	Injuries None	In-patient Hospitalization None
Underground facility type(s) and Operator(s) affected: Three phase underground primary conductor, owned and operated by Montana-Dakota Utilities		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$ Approximately \$1,950.00	Number of Customers Affected Seven Commercial	
Other impact of event: In order to repair the damage the lines had to be switched out. This caused a disruption in service to our customers. Once the repairs were made the circuit had to be returned to normal, causing another disruption in service to our customers.		
Please attach photos of Event Area or Damaged Facility		

## PART I - SIGNATURE

Signature of Person Filing Complaint Craig Lohstreter	Date 8-5-14
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Send Completed, Original Complaint To:  
Public Service Commission  
600 E Boulevard Ave Dept 408  
Bismarck ND 58505-0480  
Telephone: (701) 328-2400





