



Public Service Commission
State of North Dakota

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May 16, 2014

Robert L. Lindberg
NORTHERN EXCAVATING CO., INC.
P.O. Box 1108
Jamestown, ND 58402-1108

CASE GS-14-230

Re: Third Party Damage Complaint

Dear Mr. Lindberg:

Enclosed is a copy of a Third Party Damage Complaint against NORTHERN EXCAVATING CO., INC. (NORTHERN) received by the North Dakota Public Service Commission (Commission) on May 12, 2014, from MONTANA DAKOTA UTILITIES (MDU). The location of the damage was 196 feet East of 2nd Street East on Central Avenue in the town of Ross, in North Dakota.

Please respond to the Third Party Complaint by **May 30, 2014**, 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 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 violations of the One Call law.

Please send or e-mail written response to the Commission at the address above or call me at 701-220-5779.

Best regards,

Aaron A Morman
Pipeline Safety Inspector/Program Manager

C. Paul Reily-MDU

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Letter enclosing third-party damage 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.	Street Address 220 2nd Ave E	City Williston	State and Zip Code ND, 58801
Telephone and Cell Phone Number 701-572-1614/701-516-4357	Email Address paul.rely@mdu.com		Date 12 May 2014
<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 Ave SE, BOX 1108	City Jamestown	State and Zip Code ND, 58102
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 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 checked="" type="checkbox"/> Other (Identify the specific section of NDCC Chapter 49-23) <u>NDCC Chapter 49-23-04(1)(e) Contractor dug outside of the "Extent of Work"</u>
Location of Violation: 196' East of 2nd Street East on Central Avenue
Date and Time of Violation: On or about 1:45 p.m. on 30 April 2014
Description (summarize the observations on which you rely to allege the violation) <i>If more space is required, please provide the description on a separate page.</i> On or about the above time and date, Jody Mitteldeier operator for the above named company was digging on Central Avenue in Ross, ND under locate ticket 14030557. The contractor was digging outside the extent of work description as detailed on the locate request which read, "Excavation site is on an unknown side of the road. Locate 2nd Street East from Central Avenue North to the Railroad tracks." The impact occurred 196' East of the located road.

PART D - DAMAGE

Fatalities 0	Injuries 0	In-patient Hospitalization 0
Underground facility type(s) and Operator(s) affected: Caused shutdown of Laundromat and one other commercial customer.		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$ 1065.22	Number of Customers Affected 2	
Other impact of event:		
Please attach photos of Event Area or Damaged Facility		

PART I - SIGNATURE

Signature of Person Filing Complaint 	Date 5/12/2014
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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

Email to the Commission