

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Kollman Construction  
Damage Prevention Enforcement**

**Case No. PU-15-675**

**ORDER AND NOTICE ON DEFAULT**

**July 20, 2016**

**Preliminary Statement**

On September 18, 2015 the City of Zap, North Dakota filed a third party damage complaint alleging a violation of North Dakota Century Code Chapter 49-23 by Kollman Construction (Kollman).

On September 23, 2015 Commission Staff forwarded a copy of the third party damage complaint to the respondent, Kollman, for response. No response was received.

On March 10, 2016 Public Service Commission Advocacy Staff (Advocacy Staff) filed a formal Complaint against Kollman alleging violation of the North Dakota One-Call Law, North Dakota Century Code Chapter 49-23, requesting the Commission find Kollman in violation and impose a penalty.

On March 23, 2016 the Commission found the Complaint states a *prima facie* case.

On March 29, 2016 the Commission served the Complaint on Kollman.

On April 5, 2016 Kollman received the formal Complaint as evidenced by the return receipt on file with the Commission.

On May 2, 2016 Advocacy Staff filed and served a Motion and Notice of Motion for Order of Default.

The Advocacy Staff Memorandum of Law filed in support of its motion erroneously stated that Kollman received the formal Complaint via certified mail on March 10, 2016. Kollman actually received the formal Complaint on April 5, 2016.

## **Discussion and Statement of Grounds for Default**

Kollman violated North Dakota Century Code Chapter 49-23 by failing to provide an excavation notice to the North Dakota One Call notification center at least forty-eight hours before beginning excavation. As a result of this excavation, damage was caused to the City of Zap's 2-inch water main.

The facts before the Commission indicate that Kollman is in default for failing to file an Answer within 20 days after service of the Complaint.

Kollman's failure to file an Answer to the Complaint constitutes grounds for default under North Dakota Century Code Chapter 28-32 and North Dakota Administrative Code Chapter 69-02-02.

This Order and Notice of Default constitutes written Notice of Default and a statement of the grounds for default.

The Commission issues the following:

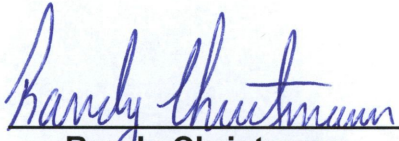
### **Order and Notice of Default**

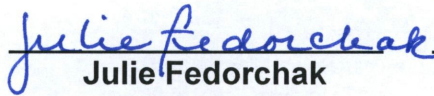
The Commission orders:

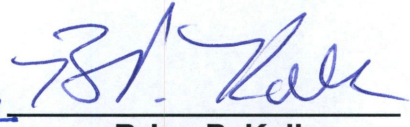
1. Kollman Construction is in default under North Dakota Century Code Chapter 28-32 and North Dakota Administrative Code Chapter 69-02-02 for failing to file an Answer to the Complaint within twenty days after service of the Complaint.
2. Kollman Construction is in violation of North Dakota Century Code Chapter 49-23 for failing to provide an excavation notice to the North Dakota One Call notification center at least forty-eight hours before beginning excavation.
3. Kollman Construction is assessed a civil penalty of \$1000.00.
4. Kollman Construction shall remit the \$1000.00 civil penalty, payable to the North Dakota Public Service Commission, within ten business days of service of this Order and Notice on Default.
5. This Order and Notice on Default constitutes written Notice of Default and a statement of the grounds for default.
6. Under North Dakota Century Code Section 28-32-30(2), Kollman Construction has seven days after service of this Order and Notice on Default to file a written motion requesting that the default order be vacated. Unless Kollman Construction, within seven days after service of this Order and Notice on Default, files a written motion requesting

that the default order be vacated, this Order and Notice on Default will be the final determination of this matter.

**PUBLIC SERVICE COMMISSION**

  
**Randy Christmann**  
Commissioner

  
**Julie Fedorchak**  
Chairman

  
**Brian P. Kalk**  
Commissioner