



Public Service Commission

State of North Dakota

COMMISSIONERS

Randy Christmann
Julie Fedorchak
Brian Kroshus

Executive Secretary
Darrell Nitschke

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

August 17, 2017

David Dircks
North Dakota Telephone Company
PO BOX 180
Devils Lake, ND 58301-0180

Re: ND One-Call Excavation Notice System: North Dakota Century Code Chapter 49-23

Dear Mr. Dircks:

Enclosed is a copy of a ND One-Call Complaint, with attachments, against North Dakota Telephone Company, received by the North Dakota Public Service Commission on August 17, 2017, from Mark Matheny at Spirit Lake Casino & Resort, of St Michael, ND, Case Number PU-17-330. The location of the damage identified in the complaint is approximately Township 152 North, Range 62 West, the Northwest quarter of Section 6 near, St Michael, ND.

I am sending you this information so that you are aware of the complaint and may respond with information concerning the complaint. **Please respond to Darrell Nitschke, Executive Secretary, North Dakota Public Service Commission, 600 East Boulevard Avenue, Dept 408, Bismarck, ND 58505-0480 by September 1, 2017**, with your written account of the event, including the applicable One Call locate ticket number for work performed at the address indicated.

Your response and the ND One-Call Complaint will be reviewed to determine whether there may be a violation of the One-Call Excavation Notice System law.

If I do not receive a response by the date noted, I will determine whether there was a violation, without your side of the story, based on the facts contained in this complaint. If I conclude a violation did occur I will file a formal complaint against North Dakota Telephone Company with the Commission, which may result in a penalty up to \$25,000 per violation as approved by the North Dakota Legislative Assembly in 2013 under North Dakota Century Code Section 49-07-01.1.

Please contact me at 701-328-3397 or at vschock@nd.gov with any questions regarding this correspondence.

Sincerely,

Victor Schock
Public Utilities Division
North Dakota Public Service Commission
600 E Boulevard Ave, Dept 408
Bismarck, ND 58505-0480

Enc: ND One-Call Complaint with attachments
c: Mark Matheny with attachments

2 PU-17-330 Filed: 8/17/2017 Pages: 4
Letter enclosing ND One-Call Complaint

Public Service Commission
Victor Schock



ND ONE-CALL COMPLAINT

Public Service Commission

SFN 59067 (5-17)

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 Spirit Lake Casino & Resort	Street Address 7889 Hwy #57	City St. Michael	State and Zip Code ND 58370
Telephone and Cell Phone Number (701) 766-4747 (701) 351-0962	Email Address mmatheny@spiritlakecasino.com		Date 8/10/17
<input 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 North Dakota Telephone Co.	Street Address P.O. Box 180	City Devils Lake	State and Zip Code ND 58301
Telephone and Cell Phone Number (701) 662-1100	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>Operator failed to locate and mark underground facility</u>
Location of Violation: 62 west, 152 north, NW quarter of section #6
Date and Time of Violation: when rep/operator was on site
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> Operator was shown by casino project manager where site excavation was going to be, and failed to locate a 48-strand buried fiber, which was installed by the operator in 2014.

PART D – DAMAGE

Fatalities none	Injuries none	In-patient Hospitalization none
Underground facility type(s) and Operator(s) affected: 48-strand buried fiber, NDTC		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$ \$4,892.07	Number of Customers Affected facilities department	
Other impact of event: interrupted communication between facilities dept. and casino.		
Please attach photos of Event Area or Damaged Facility		

PART I – SIGNATURE

Signature of Person Filing Complaint Mark Matheny Sr.	Date Aug. 10th, 2017
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Submit

If the "Submit" function is not working properly, please print the completed form and then either **email to** ndpsc@nd.gov, **fax to** 701-328-2410 or **send to** Public Service Commission, 600 E Boulevard Ave Dept 408, Bismarck ND 58505-0480.

Telephone: (701) 328-2400



NORTH DAKOTA TELEPHONE CO.

PO BOX 180
DEVILS LAKE, ND 58301-0180
(701) 662-1100

INVOICE: 23023

Invoice Date: 07/31/2017
Terms: Due 15 days
Due Date: 08/15/2017
Amount Due: \$ 4,892.07

SPIRIT LAKE CASINO & RESORT
ATTN: JIM LIGHT
7889 HIGHWAY 57 S
ST. MICHAEL ND 58370

Account: 129	Description: CUSTOMER OWNED CABLES AND DUCT CUT BY CUSTOMER ON SIDE HILL BETWEEN CASINO AND THE MAINTENANCE BUILDING			Page 1 of 2
DESCRIPTION	QUANTITY	UOM	UNIT PRICE	AMOUNT TAX
LABOR	31.000	HR	100.0000	3,100.00
6-1/2" x 22" SPLICE CASE	2.000	EA	432.7500	865.50
SPLICE TRAY	8.000	EA	39.2400	313.92
HEAT SHRINK SLEEVES	288.000	EA	0.7000	201.60
1/2" x 5' GROUND RODS	2.000	EA	14.8400	29.68
3/4" 88T VINYL TAPE	1.000	EA	4.5900	4.59
SHIELD BOND CONNECTORS	8.000	EA	2.0300	16.24
2" COUPLER	2.000	EA	9.2700	18.54
144 STRAND FIBER OPTIC CABLE	210.000	FT	1.4700	308.70
2" INNERDUCT - 30 FEET	1.000	EA	33.3000	33.30

RETURN BOTTOM PORTION WITH PAYMENT



NORTH DAKOTA TELEPHONE CO.

PO BOX 180
DEVILS LAKE, ND 58301-0180
(701) 662-1100

Account: 129
Invoice: 23023
Due Date: 08/15/2017
Amount Due: \$ 4,892.07

Amount Of Payment: _____

Remit To:

SPIRIT LAKE CASINO & RESORT
ATTN: JIM LIGHT
7889 HIGHWAY 57 S
ST. MICHAEL ND 58370

NDTC
PO BOX 180
DEVILS LAKE ND 58301-0180

My name is Mark J. Matheny Sr., Project Manager for the SLCIR. I was instructed by the facility director to have locates called in so he could dig in a storm drain.

Per locate ticket instruction, I ask participating companies to contact my cell phone when they arrived on site and I show them where work was being done. When NDTA rep arrived I showed him exactly where digging was going to be done. He said "I located at the top of the hill, and I'll go down locate at the bottom of the hill." There were no markings where line was hit while digging.

Signed:
Mark J. Matheny Sr.

Witness: Doreen P. Quinn
8/7/17