



# Public Service Commission State of North Dakota

COMMISSIONERS

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September 1, 2017

Eric Merhiy  
KPH, Inc.  
9530 39<sup>th</sup> St S  
 Fargo, ND 58104-7824

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

Dear [name]:

Enclosed is a copy of a ND One-Call Complaint, against KPH, Inc., received by the North Dakota Public Service Commission on August 31, 2017, from David Willgohs at Summit Utility of Fargo, ND, Case Number PU-17-338. The location of the incident identified in the complaint is approximately the intersection of 1<sup>st</sup> Avenue E and 4<sup>th</sup> Street E, West Fargo, 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 19, 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 KPH, Inc. 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](mailto: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  
c: David Willgohs

2 PU-17-338 Filed: 9/1/2017 Pages: 2  
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 david willgohs/ summit utility	Street Address 401 oakland ave s	City fargo	State and Zip Code nd 58103
Telephone and Cell Phone Number 701-200-2489	Email Address		Date 8/30/2017
<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 kph/ patrick hocket	Street Address po box 25	City kindred	State and Zip Code nd 58051
Telephone and Cell Phone Number 701-238-6790	Email Address		

## PART C – ALLEGED VIOLATION

<input checked="" type="checkbox"/> Operator failed to provide or update the information provided to the notification center on a timely basis <input checked="" type="checkbox"/> Excavator failed to provide excavation or location notice at least 48 hours before beginning any excavation <input checked="" type="checkbox"/> Excavator failed to provide required information in excavation or location notice <input checked="" type="checkbox"/> Notification center failed to transmit the notice to every operator that has an underground facility in the area of the excavation <input checked="" type="checkbox"/> Notification center failed to inform the excavator of the names of operators of underground facilities in the area <input checked="" type="checkbox"/> Operator failed to locate and mark underground facility within 48 hours <input checked="" type="checkbox"/> Excavation started prior to underground facility locate <input checked="" type="checkbox"/> Operator failed to mark underground facility within 24 inches horizontally <input checked="" 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 checked="" type="checkbox"/> Excavator failed to maintain the markings during excavation <input checked="" type="checkbox"/> Other (identify the specific section of NDCC Chapter 49-23) _____
Location of Violation: 1st ave e, west fargo
Date and Time of Violation: summer 2017
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> contractor is calling in respot tickets at a rate of 2 a week now for an 8 block locate which takes us 16 man hours to locate, they are clearly abusing the system because at this point it is easier to keep calling in tickets on this free service rather than respect the marks or stake the locations of utilities, they have been responsible for multiple damages of several utilities some spots more then once or twice. they even on one occassion pulled all the locate flags, because he 'wanted new marks' and we took pix of the pile of flags left by the job trailer.

## PART D – DAMAGE

Fatalities	Injuries	In-patient Hospitalization
Underground facility type(s) and Operator(s) affected: century link, midco, xcel energy gas...damages		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$	Number of Customers Affected	
Other impact of event:		
Please attach photos of Event Area or Damaged Facility		

## PART I – SIGNATURE

Signature of Person Filing Complaint D. Willgohs	Date 8/30/2017
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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