

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Public Service Commission  
Veit & Company, Inc.  
Damage Prevention Enforcement

Case No. PU-17-376

AFFIDAVIT OF SERVICE BY CERTIFIED AND REGULAR MAIL

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Geralyn R. Schmaltz** deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **11th day of January, 2018**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing photocopy of:

- **Order on Consent Agreement**

The envelope was addressed as follows:

Veit & Company, Inc.  
2801 Memorial Highway  
Mandan, ND 58554  
**Cert. No. 7017 2400 0001 0890 4100**



**Geralyn R. Schmaltz** further deposes and says that on the **11th day of January, 2018** she deposited in the United States Mail, Bismarck, North Dakota one envelope by regular mail, with postage fully prepaid, securely sealed, containing a copy of the same.

The envelope was addressed as follows:

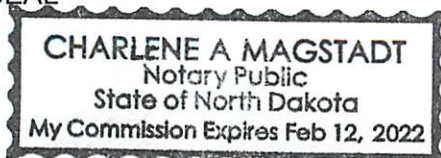
James Byerley  
West River Telcom Coop.  
101 Main St. W  
Hazen, ND 58545

The addresses shown are the respective addressee's last reasonably ascertainable mailing address.

Subscribed and sworn to before me  
this **11th day of January, 2018**.

  
\_\_\_\_\_  
  
\_\_\_\_\_  
Notary Public

SEAL



8 PU-17-376 Filed: 1/11/2018 Pages: 7  
Affidavit of Service by Cert. & Reg. Mail - Order on  
Consent Agreement

Public Service Commission

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Veit & Company, Inc.  
Damage Prevention Enforcement**

**Case No. PU-17-376**

**ORDER ON CONSENT AGREEMENT**

**January 10, 2018**

**Preliminary Statement**

On October 17, 2017, the Commission received a ND One-Call Complaint (Complaint) from West River Telecommunications Cooperative alleging a violation by Veit & Company, Inc. (Veit) of North Dakota Century Code section 49-23: One-Call Excavation Notice System.

On October 17, 2017, the Commission sent a letter to Veit enclosing the One-Call Complaint.

On December 18, 2017, the Public Service Commission Advocacy Staff (Advocacy Staff) and Veit filed a Consent Agreement for the resolution of Case No. PU-17-376.

**Discussion**

Veit & Company, Inc. is a foreign corporation authorized to do business in North Dakota with offices located at 14000 Veit Pl, Rogers, Minnesota 55374-9583.

The Complaint alleges a violation by Veit of North Dakota Century Code section 49-23-05(5) by failing to conduct excavation in a careful and prudent manner. The Complaint alleges that the excavation activity resulted in damage to a 288 fiber optic cable providing voice and broadband telecommunications services and serving Hebron Emergency 911 of approximately \$13,213.72.

North Dakota Century Code section 49-23-05(5) provides that to avoid damage and to minimize interference a ticket holder shall “[c]onduct the excavation in a careful and prudent manner.”

As a result of its investigation, Advocacy Staff believes that Veit violated North Dakota Century Code section 49-23-05(5).

Veit and Advocacy Staff engaged in good faith settlement discussions resulting in a Consent Agreement intended to resolve the alleged violations.

Under the Consent Agreement, Veit agrees to be assessed a civil penalty of \$750, payable to the North Dakota Public Service Commission, within ten business days of service of this Order.

Having considered this matter, the Commission finds the Consent Agreement filed on December 18, 2017, is reasonable and acceptable. Therefore, the Commission issues the following:


### Order

The Commission Orders:

1. The Consent Agreement filed by Veit and Advocacy Staff on December 18, 2017, is approved. A copy of the Consent Agreement is attached to and made a part of this Order.
2. Veit shall remit a penalty of \$750, payable to the North Dakota Public Service Commission within ten business days of service of this Order.

### PUBLIC SERVICE COMMISSION

  
\_\_\_\_\_  
**Brian Kroshus**  
Commissioner

  
\_\_\_\_\_  
**Randy Christmann**  
Chairman

  
\_\_\_\_\_  
**Julie Fedorchak**  
Commissioner



**Public Service Commission**  
State of North Dakota

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**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](http://www.psc.nd.gov)  
E-mail: [ndpsc@nd.gov](mailto:ndpsc@nd.gov)  
Phone: 701-328-2400  
ND Toll Free: 1-877-245-6685  
Fax: 701-328-2410  
TDD: 800-366-6888 or 711

December 18, 2017

Darrell Nitschke  
Executive Director  
ND Public Service Commission  
600 E. Boulevard Ave. Dept. 408  
Bismarck, ND 58505-0480

*Via Hand Delivery*

Re: Case No. PU-17-376  
Public Service Commission  
Veit & Company, Inc.  
Damage Prevention Enforcement

Dear Mr. Nitschke:

Enclosed is a copy of the Consent Agreement to be filed in the above captioned proceedings.

Best Regards,

John Schuh  
Legal Counsel

Enclosure

**BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA**

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<b>PUBLIC SERVICE COMMISSION,</b>	)	
	)	
<b>Complainant,</b>	)	<b>Case No. PU-17-376</b>
	)	
<b>vs.</b>	)	
	)	<b>CONSENT AGREEMENT</b>
<b>Veit &amp; Company, Inc.,</b>	)	
	)	
<b>Respondent.</b>	)	

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**Preliminary Statement**

This Consent Agreement is entered into by and between Veit & Company, Inc. (Veit) and the Public Service Commission Advocacy Staff (Staff) (together, the "Parties") for resolution of Docket No. PU-17-376.

On October 17, 2017, the Commission received a ND One-Call Complaint from West River Telecom (West River) under Case No. PU-17-376. The complaint alleged Veit violated North Dakota Century Code section 49-23-05(5) by failing to conduct excavation in a careful and prudent manner. North Dakota Century Code section 49-23-05(5) provides that to avoid damage and to minimize interference a ticket holder shall "[c]onduct the excavation in a careful and prudent manner."

Having investigated the alleged violation, Staff believes Veit violated North Dakota Century Code section 49-23-05(3).

Veit and Staff engaged in good faith settlement discussions resulting in this Consent Agreement. Having agreed that settlement of this proceeding will avoid further administrative proceedings or litigation and that entry of this Consent Agreement is the

most appropriate means of resolving this administrative action, Staff and Veit make the following agreement, subject to the approval and acceptance of the Commission:

1. Veit agrees to be assessed a civil penalty of \$750 in Case No. PU-17-376, payable to the North Dakota Public Service Commission within ten business days of service of an Order Adopting Consent Agreement (Order).
2. Veit consents to the filing of the Consent Agreement and an Order and hereby waives any further procedural requirements with respect to its issuance. Subject to the Order, Veit understands and agrees to waive all rights to contest the Consent Agreement and Order, the right to be represented by counsel, the right to present evidence and arguments to the Commission, the right to cross examine witnesses, or contest the validity of this Consent Agreement and Order Adopting this Consent Agreement, including all rights to administrative or judicial hearings or appeals.
3. There are no covenants, promises, undertakings, or understandings other than specifically set forth in this Agreement and Order.
4. This agreement may be executed in counterparts and duplicate copies, each which shall be deemed to be an original, and which, when taken together, shall constitute one and the same instrument.
5. The undersigned is authorized to act on behalf of Veit and bind Veit for purposes of this Consent Agreement, and knows and fully understands the content and effect.

Dated this 15<sup>th</sup> day of December, 2017

PUBLIC SERVICE COMMISSION  
ADVOCACY STAFF - DAMAGE PREVENTION

By: 

John M. Schuh  
Advocacy Counsel  
12<sup>th</sup> Floor, Dept. 408  
600 Boulevard Ave.  
Bismarck, ND 58505-0480

Dated this 15 day of DECEMBER, 2017

Veit & Company, Inc.

By: 

DANIEL M. WHITE  
{insert name and title} - D.M.W.

ITS: PRESIDENT