

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
Red Lake Builders, Inc.
Damage Prevention Enforcement**

Case No. PU-18-78

ORDER ON CONSENT AGREEMENT

April 11, 2018

Preliminary Statement

On February 7, 2018, the Commission received a ND One-Call Complaint from Polar Communications (Complainant) alleging a violation by Red Lake Builders, Inc. (RLB) of North Dakota Century Code section 49-23: One-Call Excavation Notice System.

On February 9, 2018, the Commission sent a letter to RLB enclosing the ND One-Call Complaint.

On February 16, 2018, RLB responded to the ND One-Call Complaint.

On March 29, 2018, the Public Service Commission Advocacy Staff (Advocacy Staff) and RLB filed a Consent Agreement for the resolution of the complaint.

Discussion

Red Lake Builders, Inc. is a foreign business corporation authorized to do business in North Dakota with offices located at Highway 89 S, Red Lake, Minnesota 56671-0250.

Complainant alleges a violation by RLB of North Dakota Century Code section 49-23-04(1) for failure to contact the notification center and provide an excavation or location notice before beginning an excavation. Complainant estimated \$1,581.12 damage to a 4-fiber optic telecommunications cable affecting telecommunication service to one customer near Pembina, North Dakota.

North Dakota Century Code section 49-23-04(1) provides that "Except in an emergency, an excavator shall contact the notification center and provide an excavation or location notice before beginning any excavation."

As a result of its investigation, Advocacy Staff concluded that RLB violated North Dakota Century Code section 49-23-04(1) by failing to contact the notification center and provide an excavation or location notice before beginning an excavation.

RLB and Advocacy Staff engaged in good faith settlement discussions resulting in a Consent Agreement intended to avoid further administrative proceedings or litigation.

Under the Consent Agreement, RLB agrees to be assessed a civil penalty of \$500, payable to the North Dakota Public Service Commission, within ten business days of service of this Order.

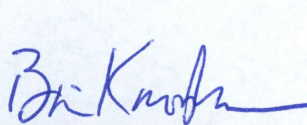
Having considered this matter, the Commission finds the Consent Agreement filed on March 29, 2018, is reasonable and acceptable. Therefore, the Commission issues the following:

Order

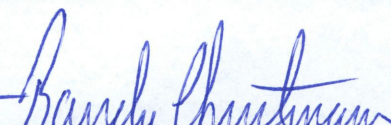
The Commission Orders:

1. RLB violated North Dakota Century Code section 49-23-04(1).
2. The Consent Agreement filed by RLB and Advocacy Staff on March 29, 2018, is approved. A copy of the Consent Agreement is attached to and made a part of this Order.
3. RLB shall remit a penalty of \$500, payable to the North Dakota Public Service Commission within ten business days of service of this Order.

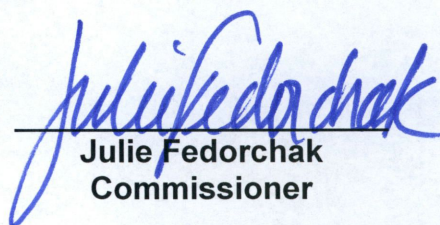
PUBLIC SERVICE COMMISSION



Brian Kroshus
Commissioner



Randy Christmann
Chairman



Julie Fedorchak
Commissioner

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION,)	
)	
Complainant,)	Case No. PU-18-78
)	
vs.)	
)	CONSENT AGREEMENT
Red Lake Builders, Inc.,)	
)	
Respondent .)	

Preliminary Statement

This Consent Agreement is entered into by and between Red Lake Builders, Inc. (RLB) and the Public Service Commission Advocacy Staff (Staff) (together, the "Parties") for resolution of Docket No. PU-18-78.

On February 7, 2018, the Commission received a ND One-Call Complaint from Polar Communications (Polar) under Case No. PU-18-78. The complaint alleged a violation by RLB of North Dakota Century Code section 49-23-04(1) for failure to contact the notification center and provide an excavation or location notice before beginning an excavation.

North Dakota Century Code section 49-23-04(1) provides that "Except in an emergency, an excavator shall contact the notification center and provide an excavation or location notice before beginning any excavation. An excavation begins the first time excavation occurs in an area that was not previously identified by the excavator in an excavation notice.

Having investigated the alleged violations, Staff has concluded that RLB violated

North Dakota Century Code section 49-23-04(1).

RLB 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 RLB agree to the following, subject to the approval and acceptance of the Commission:

1. RLB violated North Dakota Century Code section 49-23-04(1) in Case No. PU-18-78 by failing to contact the notification center and provide an excavation or location notice before beginning an excavation.
2. RLB agrees to be assessed a civil penalty of \$500, payable to the North Dakota Public Service Commission within ten business days of service of an Order Adopting Consent Agreement (Order).
3. RLB 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, RLB understands and agrees to waive all rights to contest the violations, 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.
4. There are no covenants, promises, undertakings, or understandings other than specifically set forth in this Agreement and Order.
5. This agreement may be executed in counterparts and duplicate copies, each

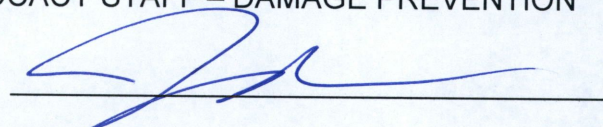
which shall be deemed to be an original, and which, when taken together, shall constitute one and the same instrument.

6. The undersigned is authorized to act on behalf of RLB and bind RLB for purposes of this Consent Agreement, and knows and fully understands the content and effect.

Dated this 23 day of March, 2018

PUBLIC SERVICE COMMISSION
ADVOCACY STAFF – DAMAGE PREVENTION

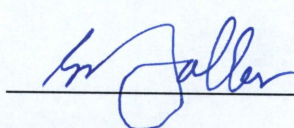
By: _____


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

Dated this 26 day of February, 2018

Red Lake Builders, Inc.

By: _____


Gordon Jallen
Construction Manager