



Public Service Commission

State of North Dakota

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May 29, 2018

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

Via Hand Delivery

Re: Case No. PU-18-124
Public Service Commission
Gateway Building Systems, Inc.
Damage Prevention Enforcement

Dear Mr. Nitschke:

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

Best Regards,

John Schuh
Legal Counsel

Enclosure

4 **PU-18-124** Filed: 5/29/2018 Pages: 4
Executed Consent Agreement

Public Service Commission Advocacy Staff
John Schuh, Advocacy Counsel

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION,)	
)	
Complainant,)	Case No. PU-18-124
)	
vs.)	
)	CONSENT AGREEMENT
Gateway Building Systems, Inc.,))
)	
Respondent .)	

Preliminary Statement

This Consent Agreement is entered into by and between Gateway Building Systems, Inc. (Gateway) and the Public Service Commission Advocacy Staff (Staff) (together, the "Parties") for resolution of Docket No. PU-18-124.

On April 16, 2018, the Commission received a ND One-Call Complaint from North Dakota Pipeline Company LLC under Case No. PU-18-124. The complaint alleged a violation by Gateway 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 Gateway

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

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

1. Gateway violated North Dakota Century Code section 49-23-04(1) in Case No. PU-18-124 by failing to contact the notification center and provide an excavation or location notice before beginning an excavation.
2. Gateway 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. Gateway 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, Gateway 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 Gateway and bind Gateway for purposes of this Consent Agreement, and knows and fully understands the content and effect.

Dated this 27th day of May, 2018

PUBLIC SERVICE COMMISSION
ADVOCACY STAFF – DAMAGE PREVENTION

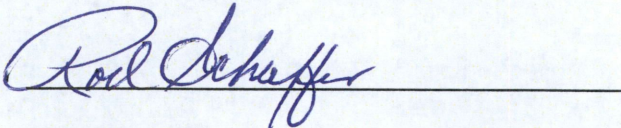
By: _____


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

Dated this 25th day of MAY, 2018

Gateway Building Systems, Inc.

By: _____


Rod Schaffer