

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Gateway Building Systems, Inc.  
Damage Prevention Enforcement**

**Case No. PU-18-124**

**ORDER ON CONSENT AGREEMENT**

**June 13, 2018**

**Preliminary Statement**

On April 16, 2018, the Commission received a ND One-Call Complaint from Emily Bridge, North Dakota Pipeline Company LLC (Complainant) alleging a violation by Gateway Building Systems, Inc. (Gateway) of North Dakota Century Code chapter 49-23: One-Call Excavation Notice System.

On April 17, 2018, the Commission sent a letter to Gateway enclosing the ND One-Call Complaint.

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

**Discussion**

Gateway Building Systems, Inc. is a North Dakota business corporation authorized to do business in North Dakota with offices located at 2138 Main Ave W, West Fargo, ND 58078.

Complainant alleges violations 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. The Complaint did not identify damage to an underground facility.

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."

As a result of its investigation, Advocacy Staff concluded that Gateway violated North Dakota Century Code section 49-23-04(1).

Gateway 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, 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 this Order Adopting Consent Agreement (Order).


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

**Order**

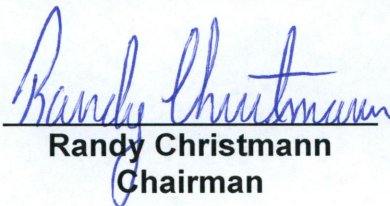
The Commission Orders:

1. Gateway violated North Dakota Century Code section 49-23-04(1).
2. The Consent Agreement filed by Gateway and Advocacy Staff on May 29, 2018, is approved. A copy of the Consent Agreement is attached to and made a part of this Order.
3. Gateway is assessed a civil a penalty of \$500.
4. Gateway shall remit \$500 civil penalty, 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**

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

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**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

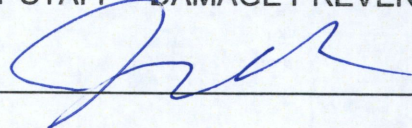
which shall be deemed to be an original, and which, when taken together, shall constitute one and the same instrument.

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 29<sup>th</sup> day of May, 2018

PUBLIC SERVICE COMMISSION  
ADVOCACY STAFF – DAMAGE PREVENTION

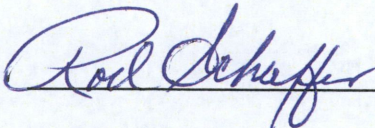
By: \_\_\_\_\_

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

Dated this 25<sup>th</sup> day of MAY, 2018

Gateway Building Systems, Inc.

By: \_\_\_\_\_

  
Rod Schaffer