



Public Service Commission
State of North Dakota

COMMISSIONERS

Brian Kroshus
Julie Fedorchak
Randy Christmann

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

February 8, 2019

Steve Kahl
Interim Executive Director
ND Public Service Commission
600 E. Boulevard Ave. Dept. 408
Bismarck, ND 58505-0480

via Hand Delivery

Re: Case No. PU-18-201
Public Service Commission
CenturyLink Communications, LLC
Damage Prevention Enforcement

Case No. PU-18-308
Public Service Commission
CenturyLink Communications, LLC
Damage Prevention Enforcement

Dear Mr. Kahl:

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

Best Regards,

John Schuh
Legal Counsel

Enclosure

5 **PU-18-308** Filed: 2/8/2019 Pages: 5
Letter enclosing Consent Agreement

Public Service Commission

5 **PU-18-201** Filed: 2/8/2019 Pages: 5
Letter enclosing Consent Agreement

Public Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION,)	
)	
Complainant,)	Case No. PU-18-201
)	PU-18-308
vs.)	
)	
CenturyLink Communications, LLC,)	CONSENT AGREEMENT
)	
Respondent .)	

Preliminary Statement

This Consent Agreement is entered into by and between CenturyLink Communications LLC (CenturyLink) and the Public Service Commission Advocacy Staff (Staff) (together, the "Parties") for resolution of Docket Nos. PU-18-201 and PU-18-308.

On June 14, 2018, the Commission received a ND One-Call Complaint from Danny Haller at Extreme Underground HDD, LLC under Case No. PU-18-201. The complaint alleged a violation by CenturyLink of North Dakota Century Code section 49-23-04(6)(n) for providing positive response to the notification center prior to completing marking of the excavation area. North Dakota Century Code section 49-23-04(6)(n) provides that "An operator that has completed marking of the excavation area or has determined there are no facilities in the area identified in the ticket shall provide positive response to the notification center in compliance with the notification center's procedures established under subsection 5 for assuring positive response from operators."

On August 17, 2018, the Commission received a ND One-Call Complaint from Darryl Heim at Bob's Oil Field Service, Inc. under Case No. PU-18-308. The complaint alleged a violation by CenturyLink of North Dakota Century Code section 49-23-04(6)(n) for providing positive response to the notification center prior to completing marking of the excavation area.

Having investigated the alleged violations, Staff has concluded that CenturyLink violated North Dakota Century Code section 49-23-04(6)(n) in Case Nos. PU-18-201 and PU-18-308.

CenturyLink and Staff engaged in good faith settlement discussions resulting in this Consent Agreement. Having agreed that settlement of these proceedings 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 CenturyLink agree to the following, subject to the approval and acceptance of the Commission:

1. CenturyLink violated North Dakota Century Code section 49-23-04(6)(n) in Case Nos. PU-18-201 and PU-18-308 by providing positive response to the notification center prior to completing marking of the excavation area.
2. CenturyLink agrees to be assessed a civil penalty of \$5000 in Case No. PU-18-201 and \$5000 in Case No. PU-18-308 for a total of \$10,000, payable to the North Dakota Public Service Commission within ten business days of service of an Order Adopting Consent Agreement (Order).
3. CenturyLink 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, CenturyLink 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. Centurylink and Staff agree that the intent of the penalty suspended in Case No. PU-17-477 was for Centurylink to ensure a properly functioning positive response system as it relates to the notification center and did not contemplate the violation contained within the captioned cases. Centurylink and Staff agree that the \$15,000 penalty suspended on condition that Centurylink commits no further violations of North Dakota Century Code 49-23-04(6)(n) within five years of the date of the June 13, 2018 Commission Order in Case No. PU-17-477 will continue to be suspended. However, If Centurylink commits any type of future violation of North Dakota Century Code section 49-23-04(6)(n) within five years of June 13, 2018, Commission Order, Centurylink shall remit the suspended penalty, \$15,000, within the time ordered by the Commission, in addition to any additional fines or penalties imposed for the subsequent violation.
5. There are no covenants, promises, undertakings, or understandings other than specifically set forth in this Agreement and Order.
6. 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

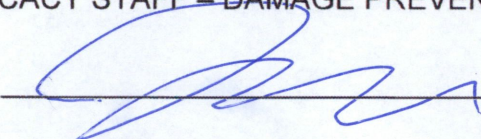
constitute one and the same instrument.

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

Dated this 8th day of February, 2018 2019

PUBLIC SERVICE COMMISSION
ADVOCACY STAFF – DAMAGE PREVENTION

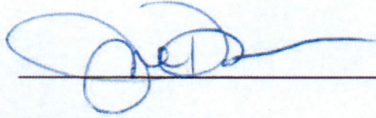
By: _____


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

Dated this 6th day of February, 2018 2019

CenturyLink Communications, LLC

By: _____


~~Kent Blickensderfer~~
~~State Legislative Affairs Director~~
~~220 N 5th St~~
~~Bismarck, ND 58504~~

Julie Darrington

Vice President - Operations

ND, SD, NE,
MT, WY

125 S. Dakota Ave
Sioux Falls, SD 57104