



Public Service Commission
State of North Dakota

COMMISSIONERS

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September 24, 2018

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-18-298
Public Service Commission
Master Construction Co., Inc.
Damage Prevention Enforcement

Dear Mr. Nitschke:

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

Best Regards,



John Schuh
Legal Counsel

Enclosure

4 **PU-18-298** Filed: 9/24/2018 Pages: 4
Consent Agreement

Public Service Commission
John Schuh, Legal Counsel

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

| | | |
|---------------------------------------|---|---------------------------|
| PUBLIC SERVICE COMMISSION, |) | |
| |) | |
| Complainant, |) | Case No. PU-18-298 |
| |) | |
| vs. |) | |
| |) | CONSENT AGREEMENT |
| Master Construction Co., Inc., |) | |
| |) | |
| Respondent . |) | |

Preliminary Statement

This Consent Agreement is entered into by and between Master Construction Co., Inc. (Master) and the Public Service Commission Advocacy Staff (Staff) (together, the "Parties") for resolution of Docket No. PU-18-298.

On July 30, 2018, the Commission received a ND One-Call Complaint from Xcel Energy under Case No. PU-18-298. The complaint alleged a violation by Master of North Dakota Century Code section 49-23-05(5) for failure to conduct the 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 "Conduct the excavation in a careful and prudent manner."

Master 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 Master agree

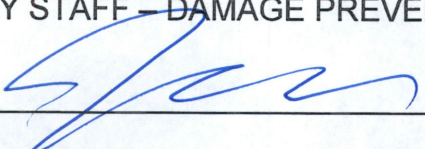
to the following, subject to the approval and acceptance of the Commission:

1. Master violated North Dakota Century Code section 49-23-05(5) in Case No. PU-18-298 by failing to conduct the excavation in a careful and prudent manner.
2. Master agrees to be assessed a civil penalty of \$2000, payable to the North Dakota Public Service Commission within ten business days of service of an Order Adopting Consent Agreement (Order)
3. Master 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, Master 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 Master and bind Master for purposes of this Consent Agreement, and knows and fully understands the content and effect.

Dated this 24th day of September, 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 18th day of SEPTEMBER, 2018

Master Construction Co., Inc.

By: _____

