

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

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

Case No. PU-18-298

AFFIDAVIT OF SERVICE BY CERTIFIED AND REGULAR MAIL

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Geralyn R. Schmaltz** deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **11th day of October, 2018**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

- **Order on Consent Agreement**

The envelope was addressed as follows:

Rachel Hardy  
Master Construction Co., Inc.  
1572 45<sup>th</sup> Street  
Fargo, ND 58102  
**Cert. No. 7018 0680 0001 3738 0233**

**Geralyn R. Schmaltz** further deposes and says that on the **11th** day of **October, 2018**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope by regular mail, with postage fully prepaid, securely sealed, each containing a photocopy of the same.

The envelope was addressed as follows:

Lisa Kallberg  
825 Rice St.  
St. Paul, MN 55117

The addresses shown are the respective addressee's last reasonably ascertainable post office addresses.

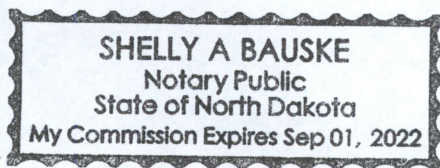
Subscribed and sworn to before me  
this **11th day of October 2018**.

*Shelley A. Bauske*

*Shelley A. Bauske*

Notary Public

SEAL



**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Master Construction Co., Inc.  
Damage Prevention Enforcement**

**Case No. PU-18-298**

**ORDER ON CONSENT AGREEMENT**

**October 10, 2018**

**Preliminary Statement**

On July 30, 2018, the Commission received a ND One-Call Complaint (Complaint) from Xcel Energy (Complainant) alleging a violation by Master Construction Co., Inc. (Master Construction) of North Dakota Century Code chapter 49-23: One-Call Excavation Notice System.

On July 31, 2018, the Commission sent a letter to Master Construction enclosing the Complaint.

On August 13, 2018, Master Construction filed a response to the Complaint.

On September 24, 2018, the Public Service Commission Advocacy Staff (Advocacy Staff) and Master Construction filed a Consent Agreement for the resolution of the complaint.

**Discussion**

Master Construction is a North Dakota corporation with office(s) located at 1572 45th St NW, Fargo, North Dakota 58107.

Complainant alleges violations by Master Construction of North Dakota Century Code section 49-23-05(5) for failure to conduct an excavation in a careful and prudent manner. The Complaint indicated that Master Construction hit a 5/8-inch polyethylene natural gas service line while grading with a skid loader resulting in approximately \$756 damage. One natural gas service customer was affected by the incident.

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."

The Consent Agreement indicates that Master Construction violated North Dakota Century Code section 49-23-05(5).

Master Construction 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, Master Construction agrees to be assessed a civil penalty of \$2,000, 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 September 24, 2018, is reasonable and acceptable. Therefore, the Commission issues the following:

### Order

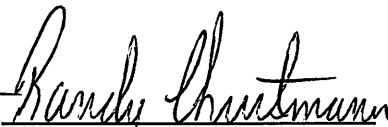
The Commission Orders:

1. Master Construction Co., Inc. violated North Dakota Century Code section 49-23-05(5).
2. The Consent Agreement filed by Master Construction Co., Inc. and Advocacy Staff on September 24, 2018, is approved. A copy of the Consent Agreement is attached to and made a part of this Order.
3. Master Construction Co., Inc. is assessed a civil a penalty of \$2,000.
4. Master Construction Co., Inc. shall remit \$2,000 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-18-298</b>
	)	
<b>vs.</b>	)	
	)	<b>CONSENT AGREEMENT</b>
<b>Master Construction Co., Inc.,</b>	)	
	)	
<b>Respondent .</b>	)	

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**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

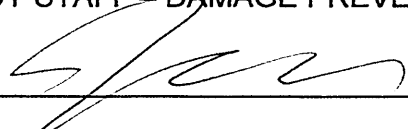
to the following, subject to the approval and acceptance of the Commission:

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 24<sup>th</sup> day of September, 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 18<sup>th</sup> day of September, 2018

Master Construction Co., Inc.

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

