

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
Craig Suhr
Damage Prevention Enforcement**

Case No. PU-18-311

ORDER ON CONSENT AGREEMENT

October 10, 2018

Preliminary Statement

On August 28, 2018, the Commission received a ND One-Call Complaint (Complaint) from CHS, Inc. (Complainant) alleging a violation by Craig Suhr (Mr. Suhr) of North Dakota Century Code chapter 49-23: One-Call Excavation Notice System.

On August 28, 2018, the Commission sent a letter to Mr. Suhr enclosing the Complaint.

On September 4, 2018, Mr. Suhr filed a response to the Complaint.

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

Discussion

Complainant alleges violations by Mr. Suhr of North Dakota Century Code section 49-23-04(1) for failure to contact the notification center and provide an excavation or location notice at least forty-eight hours before beginning any excavation. The Complaint did not identify damage to an underground facility.

North Dakota Century Code section 49-23-04(1) provides that an excavator shall contact the notification center and provide an excavation or location notice at least forty-eight hours before beginning any excavation, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the excavator and operator. If an operator determines more time is necessary for location, the operator may request a twenty-four-hour extension of the excavation or location notice by notifying the notification center. The notification center shall notify the excavator of the extension. 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 Mr. Suhr violated North Dakota Century Code section 49-23-04(1).

Mr. Suhr 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, Mr. Suhr agrees to be assessed a civil penalty of \$500. The penalty is suspended on the condition that Mr. Suhr commits no further violations of the North Dakota One Call Law (North Dakota Century Code Chapter 49-23) within five years of after the date of this Order.

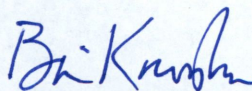
Having considered this matter, the Commission finds the Consent Agreement filed on September 24, 2018, is reasonable and acceptable. Therefore, the Commission issues the following:

Order

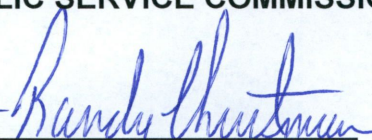
The Commission Orders:

1. Craig Suhr violated North Dakota Century Code section 49-23-04(1).
2. The Consent Agreement filed by Mr. Suhr 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. Mr. Suhr is assessed a civil a penalty of \$500.
4. The \$500 civil penalty is suspended on the condition that Mr. Suhr commits no further violations of the North Dakota One Call Law (North Dakota Century Code Chapter 49-23) within five years of the date of this Order approving the Consent Agreement.

PUBLIC SERVICE COMMISSION



Brian Kroshus
Commissioner



Randy Christmann
Chairman



Julie Fedorchak
Commissioner

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION,)	
)	
Complainant,)	Case No. PU-18-311
)	
vs.)	CONSENT AGREEMENT
)	
Craig Suhr)	
)	
Respondent)	

Preliminary Statement

On August 28, 2018, the Commission received a ND One-Call Complaint from Tina Beach with CHS, Inc. The complaint alleged a violation by Craig Suhr (Mr. Suhr) of North Dakota Century Code chapter 49-23: One-Call Excavation Notice System.

North Dakota Century Code section 49-23-04(1) states that an excavator shall contact the notification center and provide an excavation or location notice at least forty-eight hours before beginning any excavation, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the excavator and operator. If an operator determines more time is necessary for location, the operator may request a twenty-four-hour extension of the excavation or location notice by notifying the notification center. The notification center shall notify the excavator of the extension. 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, Staff concluded that Mr. Suhr violated North Dakota Century Code section 49-23-04(1).

Mr. Suhr and Public Service Commission Advocacy Staff (Advocacy 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, the Advocacy Staff and Respondent make the following agreement:

1. Advocacy Staff and Mr. Suhr agree to settle this matter on the following terms:

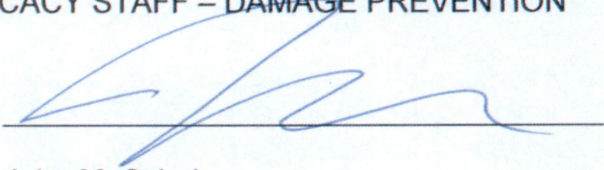
- a. Mr. Suhr violated N.D.C.C. § 49-23-04(1), by failing to provide an excavation or location notice at least 48 hours before beginning an excavation.
- b. Mr. Suhr agrees to be assessed a civil penalty of \$500. The penalty is suspended on the condition that Mr. Suhr commits no further violations of the North Dakota One Call Law (North Dakota Century Code Chapter 49-23) within five years of after the date of the Order.
- c. In the event the Commission finds Mr. Suhr violated the North Dakota One Call Law within five years of the date of the Order, Mr. Suhr shall remit the suspended penalty, within the time ordered by the Commission, in addition to any additional fines or penalties imposed for the subsequent violation
- d. If within five years of the date of the Order there is no subsequent violation of the North Dakota One Call Law by Mr. Suhr, the penalty is withdrawn.
- e. If approved by the Commission, Mr. Suhr expressly waives any further procedural requirements with respect to the issuance of the Consent Agreement and Order, Mr. Suhr waives its right to contest this matter or the validity of this Consent Agreement and Order, including all rights to administrative or judicial hearings or appeals.

- f. There are no covenants, promises, undertakings, or understandings other than specifically set forth in this Agreement and Order.
2. 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.
3. The undersigned on behalf of Craig Suhr is authorized to act on behalf of Craig Suhr and bind Craig Suhr for purposes of this Consent Agreement, 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 20 day of SEPTEMBER, 2018

Craig Suhr

By: _____

