

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Public Service Commission  
Northern Improvement Company  
Damage Prevention Enforcement

Case No. PU-18-313

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 **9th day of November, 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:

Northern Improvement Company  
PO Box 2846  
Fargo, ND 58108-2846  
**Cert. No. 7018 0680 0001 3738 0318**

**Geralyn R. Schmaltz** further deposes and says that on the **9th day of November, 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.

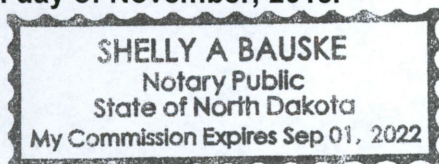
The envelope was addressed as follows:

Scott MacLean  
MDU  
1133 W. Broadway  
Dickinson, ND 58601

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

Subscribed and sworn to before me  
this **9th day of November, 2018**.

SEAL



Notary Public

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PU-18-313 Filed: 11/9/2018 Pages: 6  
Affidavit of Service, Cert. and Reg. Mail – Order on  
Consent Agreement

Public Service Commission

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Northern Improvement Company  
Damage Prevention Enforcement**

**Case No. PU-18-313**

**ORDER ON CONSENT AGREEMENT**

**November 8, 2018**

**Preliminary Statement**

On August 29, 2018, the Commission received a ND One-Call Complaint (Complaint) from Montana-Dakota Utilities (Complainant) alleging a violation by Northern Improvement Company (Northern) of North Dakota Century Code chapter 49-23: One-Call Excavation Notice System.

On August 31, 2018, the Commission sent a letter to Northern enclosing the Complaint.

On September 18, 2018, the Public Service Commission Advocacy Staff (Advocacy Staff) and Northern filed a Consent Agreement for the resolution of the complaint.

**Discussion**

Northern Improvement Company is a North Dakota corporation with office(s) located at 4000 12<sup>th</sup> Ave NW, Fargo, North Dakota 58108.

Complainant alleges a violation by Northern 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 Northern hit a 3/4-inch steel natural gas service line while conducting street project excavation resulting in approximately \$4,000 damage. The incident affected one natural gas service customer.

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 Northern violated North Dakota Century Code section 49-23-05(5) by failing to conduct an excavation in a careful and prudent manner.

Northern 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, Northern agrees to be assessed a civil penalty of \$1,500, 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 September 18, 2018, is reasonable and acceptable. Therefore, the Commission issues the following:

### Order

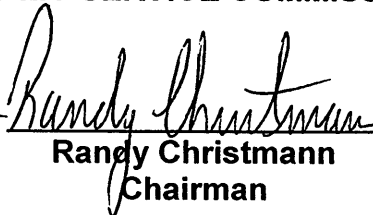
The Commission Orders:

1. Northern Improvement Company violated North Dakota Century Code section 49-23-05(5).
2. The Consent Agreement filed by Northern Improvement Company and Advocacy Staff on September 18, 2018, is approved. A copy of the Consent Agreement is attached to and made a part of this Order.
3. Northern Improvement Company is assessed a civil penalty of \$1,500.
4. Northern Improvement Company shall remit \$1,500 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-18-313</b>
	)	
<b>vs.</b>	)	
	)	<b>CONSENT AGREEMENT</b>
<b>Northern Improvement Company,</b>	)	
	)	
<b>Respondent.</b>	)	

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**Preliminary Statement**

This Consent Agreement is entered into by and between Northern Improvement Company (Northern) and the Public Service Commission Advocacy Staff (Staff) (together, the "Parties") for resolution of Docket No. PU-18-313.

On August 29, 2018, the Commission received a ND One-Call Complaint from Montana-Dakota Utilities under Case No. PU-18-313. The complaint alleged a violation by Northern 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."

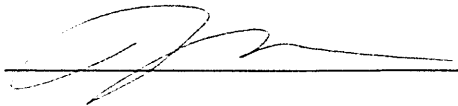
Northern and Staff engaged in good faith settlement discussions resulting in this Consent Agreement. Having agreed that settlement of this proceeding will avoid further administrative proceedings or litigation and that entry of this Consent Agreement is the most appropriate means of resolving this administrative action, Staff and Northern agree

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

1. Northern violated North Dakota Century Code section 49-23-05(5) in Case No. PU-18-313 by failing to conduct the excavation in a careful and prudent manner.
2. Northern agrees to be assessed a civil penalty of \$1500, payable to the North Dakota Public Service Commission within ten business days of service of an Order Adopting Consent Agreement (Order)
3. Northern 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, Northern 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 Northern and bind Northern for purposes of this Consent Agreement, and knows and fully understands the content and effect.

Dated this 19<sup>th</sup> day of September, 2018

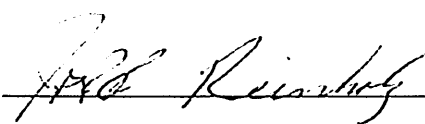
PUBLIC SERVICE COMMISSION  
ADVOCACY STAFF – DAMAGE PREVENTION

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

Northern Improvement Company

By:  VP ER Director