

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION,)	
)	
Complainant,)	Case No. PU-18-386
)	
vs.)	
)	CONSENT AGREEMENT
NoDak Plbg. and Heating, Inc.,)	
)	
Respondent .)	

Preliminary Statement

This Consent Agreement is entered into by and between NoDak Plumbing and Heating, Inc. (NoDak) and the Public Service Commission Advocacy Staff (Staff) (together, the "Parties") for resolution of Docket No. PU-18-386.

On November 9, 2018, the Commission received a ND One-Call Complaint from Capital Electric Cooperative (CEC). The complaint alleged a violation by NoDak of North Dakota Century Code section 49-23-04(4) for beginning an excavation prior to receiving notice that all facilities in the excavation area have been located or cleared or the expiration of the locate period.

North Dakota Century Code section 49-23-04(4) provides that "An excavator may begin excavation in a location when the excavator has received notice that all facilities

have been located or cleared or at the expiration of the location period or extension of the location period.”

Having investigated the alleged violations, Staff believes that NoDak violated North Dakota Century Code section 49-23-04(4).

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

1. NoDak violated North Dakota Century Code section 49-23-04(4) by beginning an excavation prior to receiving notice that all facilities in the excavation area have been located or cleared or the expiration of the locate period.
2. NoDak agrees to be assessed a civil penalty of \$6,800. NoDak agrees to remit \$5,800 of the \$6,800, payable to the North Dakota Public Service Commission within ten business days of service of an Order Adopting Consent Agreement (Order). The remaining \$1,000 civil penalty is suspended on the condition that NoDak commits no further violation of North Dakota Century Code 49-23 within five years of the date of the Order.
3. NoDak consents to the filing of the Consent Agreement and an Order and hereby waives any further procedural requirements with respect to the Order's issuance. Provided the Public Service Commission adopts this Consent Agreement and issues an Order consistent with it, NoDak understands and agrees to waive all

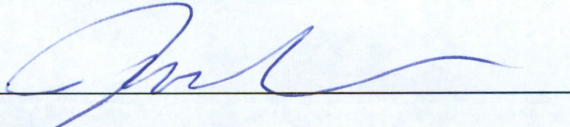
rights to contest the violations, the right to be represented by counsel, the right to present evidence and arguments to the Commission, the right to cross examine witnesses, or contest the validity of this Consent Agreement and Order Adopting this Consent Agreement, including all rights to administrative 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 NoDak and bind NoDak for purposes of this Consent Agreement, and knows and fully understands the content and effect.

Dated this 13th day of May, 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 6 day of May, 2019

NoDak Plbg. and Heating, Inc.

By: *Sayl Sarkis* / *President*
{insert name and title}