

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION,)		
)		
Complainant,)	Case No.	PU-18-388
)		PU-18-419
vs.)		
)	CONSENT AGREEMENT	
Northern Improvement Company,)		
)		
Respondent .)		

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 Nos. PU-18-388 and PU-18-419.

Case No. PU-18-388: On November 13, 2018, the Commission received a ND One-Call Complaint from Montana Dakota Utilities (MDU). 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.

Case No. PU-18-419: On December 4, 2018, the Commission received a ND One-Call Complaint from Xcel Energy. 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."

Having investigated the alleged violations, Staff believes that Northern violated North Dakota Century Code section 49-23-05(5) in Case No. PU-18-388 and in Case No. PU-18-419. (Cases PU-18-388 and PU-18-419 are collectively referred to as the "Cases.")

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:

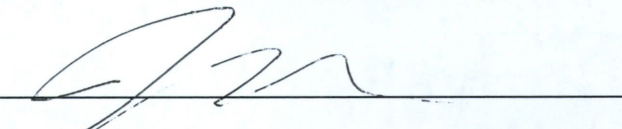
1. Northern violated North Dakota Century Code section 49-23-05(5) in Case No. PU-18-388 by failing to conduct the excavation in a careful and prudent manner.
2. Northern violated North Dakota Century Code section 49-23-05(5) in Case No. PU-18-419 by failing to conduct the excavation in a careful and prudent manner.
3. Northern agrees to be assessed a civil penalty of \$1,500 in Case No. PU-18-388 and \$1,600 in Case No. PU-18-419 for a total of \$3,100, payable to the North Dakota Public Service Commission within ten business days of service of an Order Adopting Consent Agreement (Order). Staff agrees no other proceeding will be initiated and no other remedy or penalty will be sought based on the violations alleged in the Cases.

4. Northern consents to the filing of the Consent Agreement and an Order in the Cases 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, Northern understands and agrees in the Cases 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.
5. There are no covenants, promises, undertakings, or understandings other than specifically set forth in this Agreement and Order.
6. 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.
7. 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 9th day of April, 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 4th day of April, 2019

Northern Improvement Company

By: Jeff Reinholz EHS Director V.P.
JEFF REINHOLTZ
{insert name and title}