

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION,)	
)	
Complainant,)	Case No. PU-18-411
)	
vs.)	
)	CONSENT AGREEMENT
Moorhead Electric, LLC,)	
)	
Respondent .)	

Preliminary Statement

This Consent Agreement is entered into by and between Moorhead Electric, LLC. (MEI) and the Public Service Commission Advocacy Staff (Staff) (together, the "Parties") for resolution of Docket No. PU-18-411.

On December 4, 2018, the Commission received a ND One-Call Complaint from Xcel Energy, Inc. (Xcel). The complaint alleged a violation by MEI 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 the damage was the result of misconduct by an MEI employee who chose to ignore MEI's training, safe work methods & procedures, and the instruction given to him that morning. With this in mind Staff believes MEI violated North Dakota Century Code section 49-23-05(5) in Case No. PU-18-411.

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

1. MEI violated North Dakota Century Code section 49-23-05(5) by failing to conduct the excavation in a careful and prudent manner.
2. MEI agrees to be assessed a civil penalty of \$900, 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 case.
3. MEI 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, MEI understands and agrees to waive all rights to contest the violation, the right to be represented by counsel, the right to present

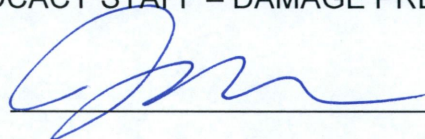
evidence and arguments to the Commission, the right to cross examine witnesses, or contest the validity of this Consent Agreement and Order Adopting this Consent Agreement, including all rights to administrative or judicial hearings or appeals.

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 MEI and bind MEI 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 6th day of May, 2019

Moorhead Electric, LLC

By: _____

Rob Gephart

Digitally signed by Rob Gephart
DN: C=US,
E=rgephart@moorheadelectric.com,
O=MEI, OU=MEI, CN=Rob Gephart
Date: 2019.05.06 08:49:40-05'00'

{insert name and title}