



# Public Service Commission

## State of North Dakota

### COMMISSIONERS

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Executive Secretary  
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January 2, 2019

KPH, Inc.  
Eric Merhiy  
9530 39<sup>th</sup> St S  
Fargo, ND 58103

Re: ND One-Call Excavation Notice System: North Dakota Century Code Chapter 49-23

Dear Eric:

Enclosed is a copy of a ND One-Call Complaint, with attachments, against KPH, Inc., received by the North Dakota Public Service Commission on December 4, 2018, from Lisa Kallberg at Xcel Energy, of St. Paul, MN, Case Number PU-18-414. The location of the damage identified in the complaint is approximately 1101 4<sup>th</sup> St S, Fargo, ND.

I am sending you this information so that you are aware of the complaint and may respond with information concerning the complaint. **Please respond to Darrell Nitschke, Executive Secretary, North Dakota Public Service Commission, 600 East Boulevard Avenue, Dept 408, Bismarck, ND 58505-0480 by January 17, 2019**, with your written account of the event, including the applicable One Call locate ticket number for work performed at the address indicated.

Your response and the ND One-Call Complaint will be reviewed to determine whether there may be a violation of the One-Call Excavation Notice System law.

If I do not receive a response by the date noted, I will determine whether there was a violation, without your side of the story, based on the facts contained in this complaint. If I conclude a violation did occur I will file a formal complaint against KPH with the Commission, which may result in a penalty up to \$25,000 per violation as approved by the North Dakota Legislative Assembly in 2013 under North Dakota Century Code Section 49-07-01.1.

Please contact me at 701-328-3397 or at [vschock@nd.gov](mailto:vschock@nd.gov) with any questions regarding this correspondence.

Sincerely,

Victor Schock  
Public Utilities Division  
North Dakota Public Service Commission  
600 E Boulevard Ave, Dept 408  
Bismarck, ND 58505-0480

Enc: ND One-Call Complaint with attachments  
c: Lisa Kallberg with attachments

2 PU-18-414 Filed: 1/2/2019 Pages: 4  
Letter enclosing North Dakota One-Call Compliant



# ND ONE-CALL COMPLAINT

Public Service Commission

SFN 59067 (5-17)

To allege a violation of the One-Call Excavation Notice System Law: North Dakota Century Code Chapter 49-23

## PART A – WHO IS SUBMITTING THIS COMPLAINT (COMPLAINANT)

Company/Person Lisa Kallberg	Street Address 825 Rice St	City St. Paul	State and Zip Code MN 55117
Telephone and Cell Phone Number 651-229-2282, 651-788-0648	Email Address elisabeth.m.kallberg@xcelenergy.com		Date December 4, 2018
<input checked="" type="checkbox"/> Complainant is willing and able to testify on the complaint if matter goes to formal hearing			

## PART B – WHO VIOLATED THE ONE-CALL REGULATIONS (RESPONDENT)

Company/Person KPH Inc	Street Address 302 Woodland Dr	City Kindred	State and Zip Code ND 58051
Telephone and Cell Phone Number 701-428-3461	Email Address Patrick@kphinc.net		

## PART C – ALLEGED VIOLATION

<input type="checkbox"/> Operator failed to provide or update the information provided to the notification center on a timely basis <input type="checkbox"/> Excavator failed to provide excavation or location notice at least 48 hours before beginning any excavation <input type="checkbox"/> Excavator failed to provide required information in excavation or location notice <input type="checkbox"/> Notification center failed to transmit the notice to every operator that has an underground facility in the area of the excavation <input type="checkbox"/> Notification center failed to inform the excavator of the names of operators of underground facilities in the area <input type="checkbox"/> Operator failed to locate and mark underground facility within 48 hours <input type="checkbox"/> Excavation started prior to underground facility locate <input type="checkbox"/> Operator failed to mark underground facility within 24 inches horizontally <input type="checkbox"/> Excavator failed to renew excavation or location request prior to the expiration of the twenty-one-day period <input checked="" type="checkbox"/> Excavator failed to conduct the excavation in a careful and prudent manner to avoid damage of underground facilities <input type="checkbox"/> Excavator failed to maintain the markings during excavation <input type="checkbox"/> Other (identify the specific section of NDCC Chapter 49-23) _____
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Location of Violation: 1101 4th St S Fargo, ND
Date and Time of Violation: July 13, 2018 approximately 10:30 am
Description (summarize the observations on which you rely to allege the violation) <i>If more space is required, please provide the description on a separate page.</i>  KPH INC was Disking the excavation area when they hit an accurately marked 2in plastic gas main . The contractor was using a discer within 24" of the marked utility, the contractor should have properly hand dug within 24" of the accurately marked gas main.

## PART D – DAMAGE

Fatalities 0	Injuries 0	In-patient Hospitalization 0
Underground facility type(s) and Operator(s) affected: 2 inch PE natural gas main		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$ \$1838	Number of Customers Affected 1	
Other impact of event:		
Please attach photos of Event Area or Damaged Facility		

## PART I – SIGNATURE

Signature of Person Filing Complaint Lisa Kallberg	Date December 4, 2018
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<b>Submit</b>
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If the "Submit" function is not working properly, please print the completed form and then either **email to** ndpsc@nd.gov, **fax to** 701-328-2410 or **send to** Public Service Commission, 600 E Boulev

Telephone: (701) 328-2400



