

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

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

Case No. PU-18-388

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

Case No. PU-18-419

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 **16th day of May 2019**, 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:

Jeff Reinholz
Northern Improvement Company
PO Box 2846
Fargo, ND 58108-2846
Cert. No. 7018 2290 0000 9934 4040

Geralyn R. Schmaltz further deposes and says that on the **16th day of May 2019**, she deposited in the United States Mail, Bismarck, North Dakota, **two** envelopes by first class mail, fully prepaid, securely sealed each containing a photocopy of of the same document.

The envelopes were addressed to:

Scott MacLean
Montana-Dakota Utilities
1133 W Broadway
Dickinson, ND 58801

Lisa Kallberg
825 Rice St.
St. Paul, MN 55117

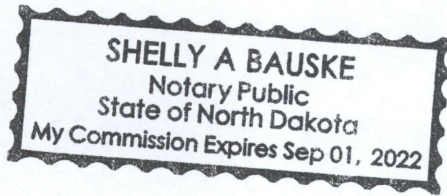
The addresses shown are the respective addressee's last reasonably ascertainable post office addresses.

Subscribed and sworn to before me
this **16th day of May 2019**.

George R. Penney

Shelly A Bauske
Notary Public

SEAL



STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

Case No. PU-18-388

**Public Service Commission
Northern Improvement Company
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Case No. PU-18-419

ORDER ON CONSENT AGREEMENT

May 15, 2019

Preliminary Statement

On November 13, 2018, the Commission received a ND One-Call Complaint from Montana-Dakota Utilities Co. (MDU) alleging a violation by Northern Improvement Company (Northern Improvement) of North Dakota Century Code chapter 49-23: One-Call Excavation Notice System. See Case No. PU-18-388.

On November 16, 2018, the Commission sent a letter to Northern Improvement enclosing the November 13, 2018 ND One-Call Complaint.

On December 4, 2018, the Commission received a ND One-Call Complaint from Xcel Energy (Xcel) alleging a violation by Northern Improvement Company (Northern Improvement) of North Dakota Century Code chapter 49-23: One-Call Excavation Notice System. See Case No. PU-18-419.

On January 2, 2019, the Commission sent a letter to Northern Improvement enclosing the December 4, 2018 ND One-Call Complaint.

On April 9, 2019, a Consent Agreement between Public Service Commission Advocacy Staff (Advocacy Staff) and Northern Improvement was filed for the resolution of the complaints.

Discussion

Northern Improvement Company is a business corporation with office(s) located at 4000 12th Ave NW, Fargo, ND 58108.

In Case No. PU-18-388, MDU alleges a violation by Northern Improvement of North Dakota Century Code section 49-23-05(5) for failure to conduct the excavation in a careful and prudent manner. The Complaint indicated that Northern Improvement hit a steel natural gas distribution line while conducting street project excavation resulting in approximately \$3,000 damage. The incident affected one natural gas service customer.

In Case No. PU-18-419, Xcel alleges a violation by Northern Improvement of North Dakota Century Code section 49-23-05(5) for failure to conduct the excavation in a careful and prudent manner. The Complaint indicated that Northern Improvement hit a 5/8-inch plastic service line while conducting road project excavation resulting in approximately \$233 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."

As a result of its investigation, Advocacy Staff concluded that Northern Improvement violated North Dakota Century Code section 49-23-05(5) in Case No. PU-18-388 and in Case No. PU-18-419.

Northern Improvement 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 Improvement 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).

Having considered this matter, the Commission finds the Consent Agreement filed on April 9, 2019, is reasonable and acceptable. Therefore, the Commission issues the following:

Order

The Commission Orders:

1. The Consent Agreement of Northern Improvement and Advocacy Staff, filed April 9, 2019, is approved. A copy of the Consent Agreement is attached to and made a part of this Order.
2. Northern Improvement is assessed a civil a 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.

3. Northern Improvement shall remit \$3,100 civil penalty, payable to the North Dakota Public Service Commission within ten business days of service of this Order.

PUBLIC SERVICE COMMISSION


Julie Fedorchak
Commissioner


Brian Kroshus
Chairman


Randy Christmann
Commissioner

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:

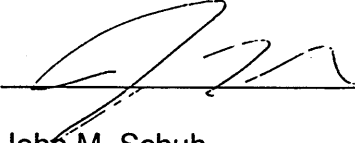
1. Northern violated North Dakota Century Code section 49-23-05(5) in Case No. PU-18-388 by failing to conduct the excavation in a careful and prudent manner.
2. Northern violated North Dakota Century Code section 49-23-05(5) in Case No. PU-18-419 by failing to conduct the excavation in a careful and 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}