

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

**Public Service Commission
Hanson's Concrete Masonry & Landscaping, LLC
Damage Prevention Enforcement**

Case No. PU-19-303

ORDER AND NOTICE OF DEFAULT

April 1, 2021

Preliminary Statement

On August 27, 2019, the Commission received a ND One-Call Complaint from Montana-Dakota Utilities Company (MDU), alleging a violation by Hanson's Concrete Masonry & Landscaping, LLC (Hanson's) of North Dakota Century Code chapter 49-23: One-Call Excavation Notice System.

On August 28, 2019, Commission Staff sent a letter to Hanson's enclosing the August 27, 2019 ND One-Call Complaint and requested a response by September 12, 2019.

On June 23, 2020, Commission Advocacy Staff (Advocacy Staff) filed a Complaint alleging Hanson's violated North Dakota Century Code (NDCC) section 49-23-04(1) by failing to provide an excavation notice to the ND One-Call Notification Center at least forty-eight hours before beginning its excavation.

On July 23, 2020, the Commission found the Complaint stated a prima facie case, and service of the Complaint was initiated on September 4, 2020, via a request to the McKenzie County Sheriff's Office.

On September 10, 2020, the Complaint was served on Hanson's as evidenced by a copy of the sheriff's return household service on file with the Commission.

On March 10, 2021, Advocacy Staff filed and served a Motion for Order of Default and Memorandum of Law.

Discussion and Statement of Grounds for Default

Hanson's Concrete Masonry & Landscaping, LLC is a registered North Dakota limited liability company with offices located at 205 Park Ave. West, Watford City, ND 58854.

On August 12, 2019, Hanson's began an excavation while performing landscaping at 109 3rd St. SW, Watford City, ND. As a result of the excavation, damage to MDU's 1-inch steel natural gas service line was sustained. MDU alleges that the cost to repair its facilities was \$2,880.58.

Hanson's violated NDCC 49-23-04(1) by failing to provide an excavation notice to the ND One-Call Notification Center at least forty-eight hours before beginning its excavation.

NDCC section 49-23-04(1) provides that "[e]xcept in an emergency, an excavator shall contact the notification center and provide an excavation or location notice before beginning any excavation. An excavation begins the first time excavation occurs in an area that was not previously identified by the excavator in an excavation notice."

The facts before the Commission indicate that Hanson's is in default for failing to file an answer within 20 days after service of the Complaint.

Hanson's failure to file an answer to the Complaint constitutes grounds for default under North Dakota Century Code Chapter 28-32 and North Dakota Administrative Code Chapter 69-02-02.

The Commission may impose a civil penalty up to \$25,000. In its Motion for Order of Default and Memorandum of Law, Advocacy Staff requests the Commission impose a penalty of at least \$1,500, and such other relief that the Commission finds just and proper.

This Order and Notice of Default constitutes written Notice of Default and a statement of the grounds for default.

The Commission issues the following:

Order and Notice of Default

The Commission Orders:

1. Hanson's Concrete Masonry & Landscaping, LLC is in default under North Dakota Century Code Chapter 28-32 and North Dakota Administrative Code Chapter 69-02-02 for failing to file an answer to the Complaint within twenty days after service of the Complaint.
2. Hanson's Concrete Masonry & Landscaping, LLC is in violation of North Dakota Century Code 49-23-04(1) by failing to provide an excavation notice to the ND One-Call Notification Center at least forty-eight hours before beginning its excavation.

- 3. Hanson's Concrete Masonry & Landscaping, LLC is assessed a civil penalty of \$1,500.
- 4. Hanson's Concrete Masonry & Landscaping, LLC shall remit the \$1,500 civil penalty, payable to the North Dakota Public Service Commission, within ten business days upon service of this Order and Notice of Default.
- 5. This Order and Notice of Default constitutes written Notice of Default and a statement of the grounds for default.
- 6. Under North Dakota Century Code Section 28-32-30(2), Hanson's Concrete Masonry & Landscaping, LLC has seven days after service of this Order and Notice of Default to file a written motion requesting that the default order be vacated. Unless Hanson's Concrete Masonry & Landscaping, LLC, within seven days after service of this Order and Notice of Default, files a written motion requesting that the default order be vacated, this Order and Notice of Default will be the final determination of this matter.

PUBLIC SERVICE COMMISSION


Randy Christmann
Commissioner


Julie Fedorchak
Chair


Brian Kroshus
Commissioner