



# Public Service Commission State of North Dakota

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COMMISSIONERS

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July 26, 2021

Mr. Steve Kahl  
Executive Secretary  
ND Public Service Commission  
600 E Boulevard Avenue Dept. 408  
Bismarck, ND 58505-0480

*via Hand Delivery*

Re: Case No. PU-20-362  
Public Service Commission  
North Country Contracting, LLC  
Damage Prevention Enforcement

Dear Mr. Kahl:

Enclosed is a copy of the Consent Agreement to be filed in the above captioned case.

Best Regards,

Brian Johnson  
Legal Counsel

A handwritten signature in blue ink, appearing to read "BJ", written over a horizontal line.

Enclosure



BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

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PUBLIC SERVICE COMMISSION,	)	
	)	
Complainant,	)	Case No. PU-20-362
vs.	)	
	)	CONSENT AGREEMENT
North Country Contracting, LLC,	)	
	)	
Respondent.	)	

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**Preliminary Statement**

This Consent Agreement is entered into by and between North Country Contracting, LLC (NCC) and the Public Service Commission Advocacy Staff (Staff) (together, the "Parties") for resolution of Docket No. PU-20-362.

On August 11, 2020, the Commission received a ND One-Call Complaint from the Montana-Dakota Utilities Company (MDU). The complaint alleged a violation by NCC of North Dakota Century Code (NDCC) section 49-23-04(6)(g) for failure to renew its excavation or location request prior to the expiration of the twenty-one day period.

On August 12, 2020, Commission staff issued a letter informing NCC of MDU's complaint filing and requested a response by August 26, 2020. NCC's September 14, 2020 response indicated that NCC failed to renew its excavation or location request prior to the expiration of the twenty-one day period.

On July 29, 2020, NCC began an excavation as defined in NDCC section 49-23-01(7) at the location cited in the excavation notice. The work was for installation of private

underground facilities at a residence located at 2724 Hawken Street, Bismarck, ND. This excavation took place twenty-one days past the planned excavation date. Damage to a 1 1/4" natural gas service line was sustained. Damage was estimated at \$1500.

NDCC section 49-23-04(6)(g) states that "[a]n excavator may not use a location more than twenty-one days, or any extension of that period, after the planned excavation date unless the excavator has made previous arrangements with the operators affected".

There was no agreement between NCC and MDU that would have relieved NCC of its obligation to request a relocate request prior to commencing excavation at the location.

Having investigated the alleged violation, Staff believes that NCC violated NDCC section 49-23-04(6)(g).

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

1. NCC violated NDCC section 49-23-04(6)(g) for failure to renew its excavation or location request prior to the expiration of the twenty-one day period.
2. NCC agrees to be assessed a civil penalty of \$2000, payable to the North Dakota Public Service Commission within ten business days of service of an Order accepting or approving the Consent Agreement (Order).

3. Staff agrees no other proceeding will be initiated and no other remedy or penalty will be sought based on the violation alleged in the Case.
4. NCC 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, NCC 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, 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 Consent 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 NCC and bind NCC for purposes

of this Consent Agreement and knows and fully understands the content and effect.

Dated this 20<sup>th</sup> day of July, 2021

PUBLIC SERVICE COMMISSION  
ADVOCACY STAFF – DAMAGE PREVENTION

By: \_\_\_\_\_

  
Brian Johnson  
Special Assistant Attorney General Bar ID 07397  
North Dakota Public Service Commission  
600 East Boulevard Avenue Dept. 408  
Bismarck ND, 58505  
701-328-2407

Dated this 23 day of JULY, 2021

North Country Contracting, LLC

By: \_\_\_\_\_

Name: MITCH FUCHS