



# Public Service Commission State of North Dakota

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## COMMISSIONERS

Julie Fedorchak  
Randy Christmann  
Brian Kroshus

600 East Boulevard Avenue Dept. 408  
Bismarck, ND 58505-0480  
Web: [www.psc.nd.gov](http://www.psc.nd.gov)  
Phone: 701-328-2400  
ND Toll Free: 1-877-245-6685  
Fax: 701-328-2410  
TDD: 800-366-6888 or 711

June 24, 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-20-386  
Public Service Commission  
CenturyLink Communications, 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,

A handwritten signature in blue ink, appearing to read "Brian Johnson".

Brian Johnson  
Legal Counsel

Enclosure

**5** **PU-20-386** Filed: 6/24/2021 Pages: 5  
**Consent Agreement**

Public Service Commission  
Brian Johnson, Legal Counsel

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

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PUBLIC SERVICE COMMISSION,	)	
	)	
Complainant,	)	Case No. PU-20-386
vs.	)	
	)	CONSENT AGREEMENT
CenturyLink Communications, LLC,	)	
Respondent .	)	

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**Preliminary Statement**

This Consent Agreement is entered into by and between CenturyLink Communications, LLC (CenturyLink) and the Public Service Commission Advocacy Staff (Staff) (together, the "Parties") for resolution of Docket No. PU-20-386.

On August 31, 2020, the Commission received a ND One-Call Complaint from Gudajtes Farms (Gudajtes). The complaint alleged a violation by CenturyLink of North Dakota Century Code (NDCC) section 49-23-04(6)(a) by failing to locate and mark its underground facility within the location period.

On September 10, 2020, Commission staff issued a letter informing CenturyLink of Gudajtes' complaint filing and requested a response by September 24, 2020. CenturyLink's September 22, 2020 response agreed that CenturyLink did not locate and mark its underground facility within the location period.

On August 12, 2020 Gudajtes personnel provided and excavation notice to the North Dakota One Call Notification Center (NDOC), with work to begin on August 15,

2020. The NDOC assigned locate ticket number 20109587 to the excavation notice, which indicates the work was mole plow tiling in the SE ¼ of section 25, Township – 156N, Range – 52W, near Warsaw, ND.

On August 18, 2020 at approximately 6:30pm CenturyLink submitted a positive response on ticket 20109587, indicating that its facilities had been marked. The due date for marking facilities on this ticket was August 15, 2020 at 12:01am. The facilities were marked three days later than what is required in NDCC section 49-23-04(6)(a). No damage resulted from this excavation.

NDCC section 49-23-04(6)(a) states “An operator with underground facilities within the area of a location request shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator within the location period or as agreed by the parties.”

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

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

1. CenturyLink violated NDCC section 49-23-04(6)(a) by failing to locate and mark its underground facility within the location period.

2. CenturyLink agrees to be assessed a civil penalty of \$6000, 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. CenturyLink 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, CenturyLink 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 CenturyLink and bind CenturyLink for purposes of this Consent Agreement and knows and fully understands the content and effect.

Dated this 25<sup>th</sup> day of June, 2021

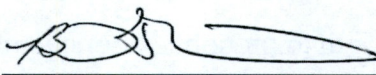
PUBLIC SERVICE COMMISSION  
ADVOCACY STAFF – DAMAGE PREVENTION

By: 

Brian Johnson  
Special Assistant Attorney General Bar ID 07937  
North Dakota Public Service Commission  
600 East Boulevard Avenue Dept. 408  
Bismarck ND, 58505  
701-328-2407

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021

CenturyLink Communications, LLC

By: 

Name: Brian Fanciulli