

Hamre, John G.

From: Crockford, Konrad S.
Sent: Thursday, January 5, 2023 3:32 PM
To: Hamre, John G.
Subject: PU-21-146
Attachments: PU-21-146 Liberty Fence 01-05-2023.pdf

John,

Please docket the attached files into case PU-21-146 along with the below information:

Telephone call with Mr. Horner on 01-05-2023 indicated that he has been in contact with Midcontinent Communications (Midco) and Midco will be perusing Liberty Fence & Deck Co. for damages to the facility.

Konrad Crockford
Director, Compliance Division

*Weights & Measures • Railroad Safety • Pipeline Safety
Auction Licensing • Risk Management • Damage Prevention*

701.328.4097 • kcrockford@nd.gov • www.psc.nd.gov



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Crockford, Konrad S.

From: -Info-Public Service Commission
Sent: Friday, December 30, 2022 09:24
To: Crockford, Konrad S.; Renfandt, Adam L.
Cc: Schock, Victor F.
Subject: FW: PU-21-146
Attachments: 4672_001.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Adam,

You were the PSC Advisor staff member when this case was opened in 2021 which is why I included you in this email.
(PU-21-146)

Konrad,

If you want me to reopen that case and docket Brady's email and attachment there please let me know. This is a time sensitive issue because Midco is demanding that Brady pay them within 10 days.

Thanks,
John

John G. Hamre

Administrative Services IV
North Dakota Public Service Commission
600 E. Blvd. Ave., Dept. 408
Bismarck, ND 58505-0480
701-328-4279
jghamre@nd.gov

From: Brady Horner <brady.horner92@gmail.com>
Sent: Friday, December 30, 2022 9:07 AM
To: -Info-Public Service Commission <ndpsc@nd.gov>
Subject: PU-21-146

***** **CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *****

Good morning,

I am reaching out as this is still an ongoing issue I am dealing with. I filed this claim back the day after they dug holes as they were not being upfront and truthful with me. They never notified me of hitting the Midco cable, I found out when I got home that night. The owner just tried covering it up the whole time. My neighbor was home when they dug the post holes and attests that they dug the post hole they hit with a normal post hole digger and not by hand. After I filed the claim and the owner was sent a letter that it was being investigated, he tried to push me into filing an insurance claim

through my home owners insurance, which is a fraudulent claim as I had no part in digging those holes. This was done by a licensed contractor. They also dug the holes on a day we had gotten a little bit of snow, so the ground was snow covered until it melted off when the snow stopped. Another thing that does not make sense at all is on that side of the fence line, one of the fence panels had to be shorter because the length did not come out exactly at another 8 foot panel on the end. Instead of putting that shorter panel on the other end and avoiding the line all together, they put a post right on top of the line. This tells me, they did not see that line there when marking for digging their holes even though it was clearly marked with flags and paint markings. This could've been completely avoided all together. To me this is not digging in a safe and prudent manner if they used a regular post hole digger without hand digging and put that post directly on top of a line when they had other options to do. Midco has since sent me the bill to pay over \$3,100 for damages caused by Liberty Fence. I have attached the letter received from Liberty and I ask you to please look into this and help me out as much as possible. I don't feel this is professional work practices as a licensed contractor.

Thank you,

Brady Horner



Direct Dial: 605-274-2921
Email: Cindy.Wooten@midco.com

December 27, 2022

**Via Certified Mail
Return Receipt Requested**

Mr. Brady Horner
1162 9th Ave. W.
West Fargo, ND 58078

**Re: Demand for payment for damages caused by Liberty Fence & Deck Co
at the following address: 1162 9th Ave. West, West Fargo, ND**

Dear Mr. Horner:

Midcontinent Communications (“Midco”) sent several demand letters to Liberty Fence & Deck Co. (“Liberty”) for payment of damages to Midco’s cable, caused by Liberty installing your fence. Today Midco received from Liberty the attached contract showing that you agreed to be responsible for any damages caused to utilities caused by Liberty if you required them to dig within 2 feet of marked underground utilities. You required Liberty to dig within 2 feet of Midco’s underground cable.

Liberty using a post hole digger failed to dig around Midco’s cable, which had been accurately marked. Liberty hit and cut through Midco’s cable. Midco had to replace 225 feet of .540 at a cost of \$3,164.34.

Midco has pictures of the damage. Please let me know if you would like a copy of those and I will send them to you.

This letter is formal demand upon you for payment in the amount of \$3,164.34. Please make your check payable to Midcontinent Communications and send to:

Midcontinent Communications
Attn: Legal Department
3901 N Louise Avenue
Sioux Falls, SD 57107

If you prefer that I contact your insurance company, please provide me with the name, address, and account information.

3901 North Louise Avenue, Sioux Falls, SD 57107
P.O. Box 5010 | Sioux Falls, SD 57117-5010

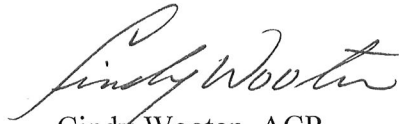
Page 2

Midco requests payment from you within 10-days of its receipt of this letter.

Midco expressly reserves any and all rights and remedies available to it at law or in equity or otherwise against you.

If you have any questions or require additional information, feel free to reach out to me. My contact information is set forth above.

Sincerely,

A handwritten signature in cursive script that reads "Cindy Wooten". The signature is written in black ink and is positioned above the typed name.

Cindy Wooten, ACP
Advanced Certified Paralegal
Midcontinent Communications

/cf

Crockford, Konrad S.

From: -Info-Public Service Commission
Sent: Friday, December 30, 2022 10:54
To: Crockford, Konrad S.
Cc: Renfandt, Adam L.; Schock, Victor F.
Subject: FW: PU-21-146

From: Brady Horner <brady.horner92@gmail.com>
Sent: Friday, December 30, 2022 10:46 AM
To: -Info-Public Service Commission <ndpsc@nd.gov>
Subject: Re: PU-21-146

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Just some more information I have found out this morning. I called Cindy Wooten from Midco, listed on this letter and and talked to her about it. She stated to me, "this contractor has gotten away with this in the past. He has successfully had home owners file for insurance claims through their home owners insurance and they have paid those claims to us." That is wrong and those are fraudulent claims, so I wanted to update the case with this information. This was straight from Cindy Wooten, a paralegal with Midco.

-Brady

On Fri, Dec 30, 2022 at 9:07 AM Brady Horner <brady.horner92@gmail.com> wrote:

Good morning,

I am reaching out as this is still an ongoing issue I am dealing with. I filed this claim back the day after they dug holes as they were not being upfront and truthful with me. They never notified me of hitting the Midco cable, I found out when I got home that night. The owner just tried covering it up the whole time. My neighbor was home when they dug the post holes and attests that they dug the post hole they hit with a normal post hole digger and not by hand. After I filed the claim and the owner was sent a letter that it was being investigated, he tried to push me into filing an insurance claim through my home owners insurance, which is a fraudulent claim as I had no part in digging those holes. This was done by a licensed contractor. They also dug the holes on a day we had gotten a little bit of snow, so the ground was snow covered until it melted off when the snow stopped. Another thing that does not make sense at all is on that side of the fence line, one of the fence panels had to be shorter because the length did not come out exactly at another 8 foot panel on the end. Instead of putting that shorter panel on the other end and avoiding the line all together, they put a post right on top of the line. This tells me, they did not see that line there when marking for digging their holes even though it was clearly marked with flags and paint markings. This could've been completely avoided all together. To me this is not digging in a safe and prudent manner if they used a regular post hole digger without hand digging and put that post directly on top of a line when they had other options to do. Midco has since sent me the bill to pay over \$3,100 for damages caused by Liberty Fence. I have attached the letter received from Liberty and I ask you to please look into this and help me out as much as possible. I don't feel this is progressional work practices as a licensed contractor.

Thank you,

Brady Horner

Crockford, Konrad S.

From: Crockford, Konrad S.
Sent: Thursday, January 5, 2023 15:24
To: brady.horner92@gmail.com
Subject: RE: PU-21-146

Mr. Horner,

As we discussed over the phone today, here is the link to North Dakota Century Code (N.D.C.C.) Chapter 49-23 One-Call Excavation Notice System (811 Law).

<https://www.ndlegis.gov/cencode/t49c23.pdf>

N.D.C.C. Section 49-23-06. Damage to facilities – Penalty. (Page 7) covers the liability of an excavator for damages caused to a facility.

Please let me know if you have any questions.

Konrad Crockford
Director, Compliance Division

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Cc: Renfandt, Adam L. <arenfandt@nd.gov>; Schock, Victor F. <vschock@nd.gov>
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