

6-10-2021

Public Service Commission

Public Utilities Division

Adam Renfandt

600 E BLVD Ave Dept. 408

Bismarck, ND 58505

RECEIVED  
JUN 11 2021

NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Re: Response letter for ND One-Call Complaint from Tyler Kilde

Dear Mr. Renfandt:

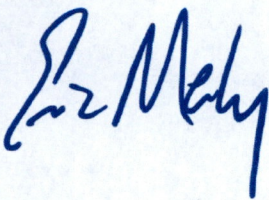
Please see attached items for your reference. KPH has included a narrative from our project manager Eric Odegaard and foreman Saul Mercado. Pictures of the locates prior to excavation. Picture of KPH exposing the wires and hand digging. Lastly a markup of the complaint from Mr. Kilde stating facts from KPH.

As you review and can see by the pictures, this was extremely abnormal site. From a mess of current and existing lines along with not knowing what was abandoned or in service KPH performed this work to the best of our ability. KPH used all means and methods to preserve all utilities in a working matter.

KPH received only one invoice from MLGC in October of 2020. At that time, we submitted the invoice to our insurance company. Our insurance company acknowledge receipt of invoice and have been in contact with MLGC. No other past due invoices have been sent to KPH or our Insurance to my knowledge.

I hope you take time to review these items and please let me know if you have any questions. Please feel free to reach me at 701-361-3412 or [eric@kphinc.net](mailto:eric@kphinc.net)

Sincerely



Eric Merhiy

President

KPH Inc.

3 PU-21-177 Filed 06/11/2021 Pages: 26  
Response to North Dakota One-Call Complaint  
KPH, Inc.  
Eric Merhiy, President



## Eric Merhiy

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**From:** Eric Odegaard  
**Sent:** Wednesday, June 9, 2021 6:59 PM  
**To:** Eric Merhiy  
**Cc:** Office; Saul Mercado; Dan Sommerfeld  
**Subject:** Oxbow Rebuttal to MLGC Complaint  
**Attachments:** Rebuttal Comments Pictures.pdf; 70789.jpeg; 70811.jpeg; 70808.jpeg; 70808.jpeg; 70806.jpeg

Eric,

After discussing complaint filed with exaggerated pictures, and attached Rebuttal Comments Pictures with Saul's and my comments, please see comments and note that the pictures are mostly of Centurylink's lines. Comments show lines that were placed clear and safely out of the trench as approved by Centurylink(Matt).

MLGC's line was left in side of trench and not adjusted significantly after it was exposed. See circled MLGC.

MLGC did not come onsite until engineering staff called. MLGC came to site initially to review a possible hit and did a repair with duct tape and left, and had to return a 2<sup>nd</sup> time to repair after sanding pulled duct tape apart. See complaint pictures in Rebuttal Comments Pictures.

MLGC utilities consisted of 2 - 2" conduits. One was empty and was cut and repair with duct tape. Second one had a line in it and was kinked and not cut, but when we asked Tyler if anyone was out of service he said "No". Tyler Kilde became very angry after duct tape came apart and yelled at crew(Saul will have to describe).

KPH crew carefully hand dug and painted with print all lines as they were exposed as attached pictures show - Operators and pipelayers in trench with shovels and not machinery.

MLGC's complaint pictures are showing post marked locates and not prior to hit. And again several of the Complaint pictures in package sent to the Public Service are mostly of Centurylink's lines and old abandoned lines that Saul's crew was approved to cut by Matt to clear for the installation of 54" RCP and MH30

A false comment in the description; at **no payment approved** for repairs. I simply told Tyler to submit a claim.

Please give me a call if you need any more description of events leading up to MLGC complaint.

Eric



**WARNING**  
UNDERGROUND  
CABLE







SPEED LIMIT  
25

25

ROAD  
CROSSING  
AHEAD

KPH

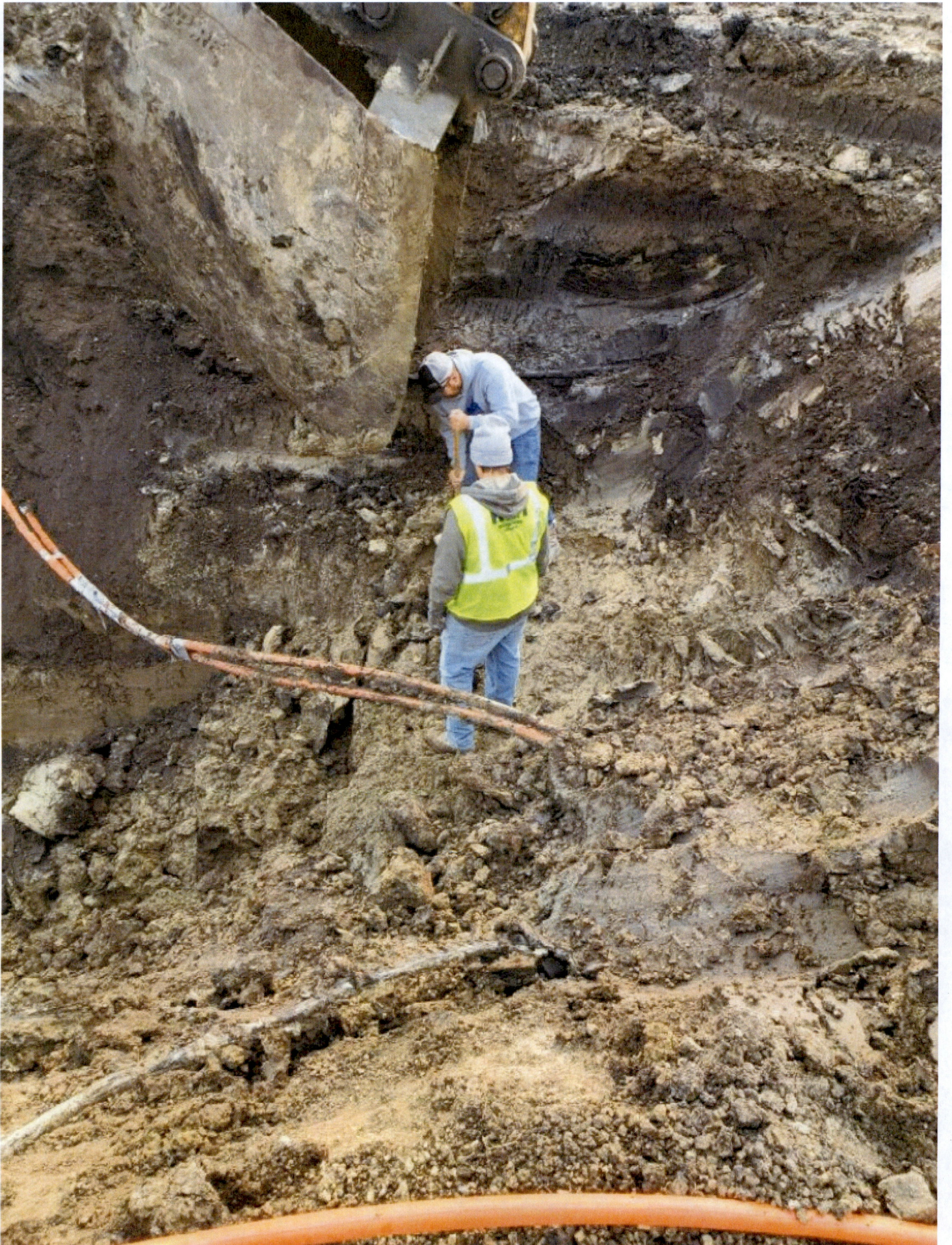


















Public Service Commission  
State of North Dakota

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COMMISSIONERS

Julie Fedorchuk  
Randy Christmann  
Brian Kroshus

May 27, 2021

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

KPH, Inc.  
Eric Merhiy  
9530 39<sup>th</sup> Street South  
 Fargo, ND 58104

Re: ND One-Call Excavation Notice System: North Dakota Century Code Chapter 49-23

Dear Mr. Merhiy:

Enclosed is a copy of a ND One-Call Complaint, against KPH, Inc. received by the North Dakota Public Service Commission on May 20, 2021, from Tyler Kilde at Griggs County Telephone Co. (d/b/a MLGC), of Enderlin, ND, Case Number PU-21-177. The location of the damage identified in the complaint is approximately at the intersection of Highway 81 and Main Avenue, Hickson, ND.

I am sending you this information so that you are aware of the complaint and may respond with information concerning the complaint. **Please respond to Executive Director, North Dakota Public Service Commission, 600 East Boulevard Avenue, Dept 408, Bismarck, ND 58505-0480 by June 10, 2021**, with your written account of the event, including the applicable One-Call locate ticket number for work performed at the location indicated.

Your response and the ND One-Call Complaint will be reviewed to determine whether there may be a violation of the One-Call Excavation Notice System law.

If I do not receive a response by the date noted, I will determine whether there was a violation, without your side of the story, based on the facts contained in this complaint. If I conclude a violation did occur I will file a formal complaint against KPH, Inc. with the Commission, which may result in a penalty up to \$25,000 per violation as approved by the North Dakota Legislative Assembly in 2013 under North Dakota Century Code Section 49-07-01.1.

Please contact me at 701-328-4153 or at [arenfandt@nd.gov](mailto:arenfandt@nd.gov) with any questions regarding this correspondence.

Sincerely,

  
Adam Renfandt  
Public Utilities Division  
North Dakota Public Service Commission  
600 E Boulevard Ave, Dept 408  
Bismarck, ND 58505-0480

Enc: ND One-Call Complaint  
c: Tyler Kilde



# ND ONE-CALL COMPLAINT

Public Service Commission

SFN 59067 (5-17)

To allege a violation of the One-Call Excavation Notice System Law: North Dakota Century Code Chapter 49-23

## PART A - WHO IS SUBMITTING THIS COMPLAINT (COMPLAINANT)

Company/Person Griggs County Telephone Co d/b/a NLECC	Street Address 301 Dawsey Street	City Endicott	State and Zip Code ND, 58327
Telephone and Cell Phone Number 70-716-3333	Email Address tyler.kilde@nlecc.net		Date 5.19.2021

Complainant is willing and able to testify on the complaint if matter goes to formal hearing

## PART B - WHO VIOLATED THE ONE-CALL REGULATIONS (RESPONDENT)

Company/Person KPH, Inc	Street Address 9330 39th Street S	City Fargo	State and Zip Code ND, 58101
Telephone and Cell Phone Number 701-499-7979	Email Address		

## PART C - ALLEGED VIOLATION

Operator failed to provide or update the information provided to the notification center on a timely basis

Excavator failed to provide excavation or location notice at least 48 hours before beginning any excavation

Excavator failed to provide required information in excavation or location notice

Notification center failed to transmit the notice to every operator that has an underground facility in the area of the excavation

Notification center failed to inform the excavator of the names of operators of underground facilities in the area

Operator failed to locate and mark underground facility within 48 hours

Excavation started prior to underground facility locate

Operator failed to mark underground facility within 24 inches horizontally

Excavator failed to renew excavation or location request prior to the expiration of the twenty-one-day period

Excavator failed to conduct the excavation in a careful and prudent manner to avoid damage of underground facilities

Excavator failed to maintain the markings during excavation

Other (Identify the specific section of NDCC Chapter 49-23) \_\_\_\_\_

Location of Violation:  
High 31 and Main Ave, Hickson, ND

Date and Time of Violation:  
First - September 11, 2020 @ around 3pm. The second damage was noticed on September 14, 2020 @ 1:30

Description (summarize the observations on which you rely to allege the violation) *If more space is required, please provide the description on a separate page.*

KPH repeatedly damaged our facilities not only once, but twice following a temporary repair on September 11, 2020. Fiber was marked. Since the time of the incident, Griggs was promised multiple times that our damages would be paid. As of today, the invoice has not been paid.

**FALSE!** →  
SEE PICTURE  
- USED PINK  
- HIS PICTURE  
- WAS LATER  
- WE TRACED  
OVER AND  
TRACED EACH  
LINE

NO? DO NOT SUBMIT CLAIM ONLY.

## PART D - DAMAGE

Fatalities	Injuries	In-patient Hospitalization
Underground facility type(s) and Operator(s) affected: 2 x 1/2 ducts and a 432 fiber		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$ \$30,397.84	Number of Customers Affected Unknown	
Other impact of event: Traffic on the fiber included: Griggs County Telephone Company, Polar, Verizon, Red River T1 Transport, DGN South and, Connection to SDN (South Dakota), State Radio, Verizon, AT&T, and T-Mobile.		
Please attach photos of Event Area or Damaged Facility		

## PART I - SIGNATURE

Signature of Person Filing Complaint Tyler H. Kilde	Date 5.19.2021
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**Submit**

If the "Submit" function is not working properly, please print the completed form and then either **email to** ndpsc@nd.gov, **fax to** 701-328-2410 or **send to** Public Service Commission, 600 E Boulevard Ave Dept 408, Bismarck ND 58505-0480.

Telephone: (701) 328-2400

\* We were told there was no loss of service.

**ERNST TRENCHING INC.**

PO BOX 9543  
 FARGO, ND 58106-9543  
 www.ernsttrenching.com  
 (701) 282-5954

WO 20200901

**INVOICE**

13919

INVOICE DATE

10-19-2020

TO

Griggs County Telephone Compny  
 ATTN: Tyler  
 301 Dewey Street  
 Enderlin, ND 58027

SHIP TO

Damage Repair/Oxbow ND

ACCT #	SHIP DATE	SHIPPED VIA	TERMS	PURCHASE ORDER #	
GRICOU					
QTY	DESCRIPTION		UNIT PRICE	AMOUNT	
892.00	feet	Pull Cable (432 count)	1.40	1,248.80	
3.00	hours	Cat Premier Vacuum Excavator	380.00	1,140.00	
6.00	hours	Case 380N Backhoe	190.00	1,140.00	
13.00	hours	Supervisor	69.00	897.00	
24.00	hours	Labor	57.00	1,368.00	
892.00	feet	Remove Damaged Cable	.50	446.00	
72.00		HO 12	274.00	19,728.00	
2.00		HBFO	260.00	520.00	
60.00		BM 3	1.00	60.00	
<p>**Make repairs to damaged 432 count cable in Oxbow ND: Used Cat Premier Vacuum system and backhoe to expose damaged duct. Repair spare empty duct to pull in new 432 count cable. Dig up and remove existing vault North of Oxbow Drive. Dig up conduit running under existing vault location. Cut into duct to be able to pull tail out at time of cut over. Dig pit South of Oxbow Drive to be able to cut off existing duct at time of cut over. Pull in new 432 count cable into spare duct. Splicers arrive and set up prepping cables for cut over at midnight. Splice cut off cable and splice to new cable starting at midnight and work until complete. Replace removed vault, backfill around vault and backfill pit and restore. Pull out old cable. Return material to MLGC in Kindred.</p>					
				Amount Billed	\$26,547.80
				Total Tax	
				Retainage Held	
				<b>TOTAL</b>	<b>\$26,547.80</b>

**Thank You**

STOP

OK'd by Centurylink  
(NOT MLGC's)

OK'd ABANDONED  
LINES



NO MLGC Pictured



MUGS  
repaired  
with  
DUCT  
TAPE

KPH  
FINK  
TO  
TRACK

POST MARKED - NOT ORIGINAL!



KPH  
COND  
SPRAY  
PAINT

"OLD" ABANDONED "OK" to Cut" Approved by Centrolink

- NEVER LOST SERVICE  
- ONLY 4 MLGC LINES



STOP

— While sanding  
MLGC's DUCT TAPE  
FAILED!  
— (IN APPROPRIATE REPAIR)



JUD STEVENSON

218-847-4435 218-850-0106

?

\* CENTURY LINK LINES  
SHOWN ONLY





DUCTTUBE  
OVER  
SPACE  
AT  
EMPTY DUCT



