

Company's (MDU) 3/4-inch natural gas line was sustained. The ticket indicated one customer was affected. Damages was estimated at \$1,000.

On August 30, 2021, the Commission received a ND One-Call Complaint from MDU. The complaint alleged a violation by BEK of NDCC section 49-23-05(5) for failure to conduct an excavation in a careful and prudent manner.

On September 1, 2021, Commission staff issued a letter informing BEK of MDU's complaint and requested a response by September 14, 2021. BEK's September 13, 2021 response did not dispute MDU's claim that BEK hit the line.

Having investigated the alleged violation, Staff believes that BEK violated NDCC 49-23-05(5).

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


1. BEK violated NDCC 49-23-05(5) by failing to conduct the excavation in a careful and prudent manner.
2. BEK agrees to be assessed a civil penalty of \$1,500, payable to the North Dakota Public Service Commission within ten business days of service of an Order accepting or approving the Consent Agreement.

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. BEK 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, BEK 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 Adopting this Consent Agreement, including all rights to administrative or judicial hearings or appeals.
5. Pursuant to the Order approved by the Commission in Case Nos. PU-20-343, PU-21-241, and PU-21-305, BEK must remit the suspended portion of the penalty in those cases, \$2,650, payable to the North Dakota Public Service Commission within ten business days of service of an Order accepting or approving the Consent Agreement.
6. There are no covenants, promises, undertakings, or understandings other than specifically set forth in this Agreement and Order.
7. 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.

8. The undersigned is authorized to act on behalf of BEK and bind BEK for purposes of this Consent Agreement, and knows and fully understands the content and effect.

Dated this 7th day of October, 2021

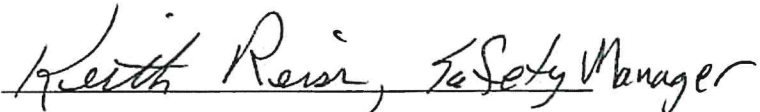
PUBLIC SERVICE COMMISSION
ADVOCACY STAFF – DAMAGE PREVENTION

By: 

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701-328-2407

Dated this 7th day of October, 2021

BEK Consulting, LLC

By: 

{insert name and title}