

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
JR Civil LLC
Damage Prevention Enforcement

Case No. DM-24-333

ORDER ON CONSENT AGREEMENT

March 26, 2025

Preliminary Statement

JR Civil LLC (JR) is a domestic limited liability company with a principal address of 536 Kathy Lane, Billings, Montana 59105 and a mailing address of PO Box 51330, Billings, Montana 59105-1330.

On September 11, 2024, the Commission received a North Dakota One-Call Complaint (Complaint) from Montana-Dakota Utilities Co. (MDU). The Complaint alleges that JR violated North Dakota Century Code (N.D.C.C.) § 49-23-05(5) of the One-Call Excavation Notice System on three separate occasions by failing to conduct the excavations in a careful and prudent manner.

On December 17, 2024, Staff received a response from JR acknowledging that JR struck MDU natural gas lines three separate times.

On February 24, 2025, a Consent Agreement between Public Service Commission Advocacy Staff (Advocacy Staff) and JR was filed for the resolution of the Complaint.

Discussion

N.D.C.C. § 49-23-05 states in part that “[t]o avoid damage to and minimize interference with underground facilities in and near the excavation area, a ticket holder shall: . . . 5. [c]onduct the excavation in a careful and prudent manner.”

N.D.C.C. § 49-23-01(3) states in part “[c]areful and prudent manner’ means: a. [m]anually excavating within twenty-four inches [60.96 centimeters] of the outer edges of any underground facility on a horizontal plane as located and marked by the owner or operator.”

N.D.C.C. § 49-23-06(1)(a) states in part “[i]f the damage results in the escape of flammable, toxic, or corrosive gas or liquid, the excavator shall (1) [c]all 911 immediately.”

Having investigated the alleged violations, Staff believes JR violated N.D.C.C. §§ 49-23-05(5), and 49-23-06(1)(a) of the One-Call Excavation Notice System by failing to conduct the excavation in a careful and prudent manner three times and by failing to notify 911 of damage which resulted in the escape of flammable gas one time.

JR and Advocacy Staff engaged in good faith settlement discussions resulting in a Consent Agreement intended to avoid further administrative proceedings or litigation.


Having considered this matter, the Commission finds the Consent Agreement is reasonable and acceptable. Therefore, the Commission issues the following:


Order


The Commission Orders:

1. The Consent Agreement between JR and Advocacy Staff filed with the Commission on February 24, 2025, is approved. A copy of the Consent Agreement is attached to and made a part of this Order on Consent Agreement (Order).
2. JR is assessed a civil penalty of \$3,500 with \$1,500 suspended, on the condition JR commits no further violation of N.D.C.C. Chapter 49-23 within five years of the date of the Order.
3. JR shall remit the \$2,000 civil penalty payable to the North Dakota Public Service Commission, within ten business days of service of this Order.
4. In the event the Commission finds JR violated N.D.C.C. Chapter 49-23 within five years of the date of the Order, JR shall remit the suspended portion of the penalty within the time ordered by the Commission, in addition to any fines or penalties imposed for the subsequent violation.
5. JR agrees to provide the Commission, within ten (10) business days of service of this Order, a U.S. Department of the Treasury Internal Revenue Service Form W-9 for purposes of the identification requirement of Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), the performance is restitution, remediation, or an amount paid to come into compliance with the law.

PUBLIC SERVICE COMMISSION


Sheri Haugen-Hoffart
Commissioner


Randy Christmann
Chair


Jill Kringstad
Commissioner

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

Public Service Commission
JR Civil LLC
Damage Prevention Enforcement

Case No. DM-24-333

| | | |
|----------------------------|---|-------------------|
| PUBLIC SERVICE COMMISSION, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| vs. |) | CONSENT AGREEMENT |
| |) | |
| JR Civil LLC |) | |
| |) | |
| Respondent. |) | |

This Consent Agreement is entered into by and between JR Civil LLC (JR) and the Public Service Commission (Commission) Advocacy Staff (Staff) (together, the Parties) for resolution of Case No. DM-24-333.

Preliminary Statement

On September 11, 2024, the Commission received a North Dakota One-Call Complaint (Complaint) from Montana-Dakota Utilities Co. (MDU). The Complaint alleges that JR violated North Dakota Century Code (N.D.C.C.) § 49-23-05(5) of the One-Call Excavation Notice System on three separate occasions by failing to conduct the excavations in a careful and prudent manner.

On December 17, 2024, Staff received a response from JR acknowledging that JR struck MDU natural gas lines three separate times.

Discussion

On July 10, 2024, JR filed an excavation notice with the North Dakota One-Call Notification Center (NDOC) to install water mains in Rhame, North Dakota. NDOC assigned ticket number 24081492 with an expiration date of August 3, 2024.

On July 25, 2024, JR was conducting an excavation and struck an MDU 3/4" natural gas service line causing an outage to 1 customer.

On August 26, 2024, JR filed an excavation notice with NDOC to install water mains in Rhame, North Dakota. NDOC assigned ticket number 24113342 with an expiration date of September 19, 2024.

On August 27, 2024, JR was conducting an excavation and struck an MDU 3/4" natural gas service line causing an outage to 1 customer.

On September 9, 2024, JR was conducting an excavation and struck an MDU 3/4" natural gas service line causing an outage to 1 customer. JR did not notify 911 of the September 9, 2024, gas line strike.

Violations:

N.D.C.C. § 49-23-05 states in part that "[t]o avoid damage to and minimize interference with underground facilities in and near the excavation area, a ticket holder shall: . . .5. [c]onduct the excavation in a careful and prudent manner."

N.D.C.C. § 49-23-01(3) states in part "'[c]areful and prudent manner' means: a. [m]anually excavating within twenty-four inches [60.96 centimeters] of the outer edges of any underground facility on a horizontal plane as located and marked by the owner or operator."

N.D.C.C. § 49-23-06(1)(a) states in part "[i]f the damage results in the escape of flammable, toxic, or corrosive gas or liquid, the excavator shall (1) [c]all 911 immediately."

Having investigated the alleged violations, Staff believes JR violated N.D.C.C. §§ 49-23-05(5), and 49-23-06(1)(a) of the One-Call Excavation Notice System by failing to conduct the excavation in a careful and prudent manner three times and by failing to notify 911 of damage which resulted in the escape of flammable gas one time.

Agreement

The Parties engaged in good faith settlement discussions resulting in this Consent Agreement. Having agreed that settlement of these proceedings will avoid further administrative proceedings or litigation, and that entry of this Consent Agreement is the most appropriate means of resolving this administrative action, the Parties agree to the following, subject to the approval and acceptance of the Commission:

1. JR violated N.D.C.C. §§ 49-23-05(5), and 49-23-06(1)(a) of the One-Call Excavation Notice System by failing to conduct the excavation in a careful and prudent manner three times and by failing to notify 911 of damage which resulted in the escape of flammable gas one time.
2. JR agrees to be assessed a civil penalty of \$3,500.
3. JR agrees to remit \$2,000 of the \$3,500, payable to the North Dakota Public Service Commission within ten (10) business days of service of an Order accepting or approving the Consent Agreement. The remaining \$1,500 civil penalty is suspended on the condition that JR commits no further violations of N.D.C.C. Chapter 49-23 within five (5) years of the date of the Order.

4. Staff agrees no other proceeding will be initiated and no other remedy or penalty will be sought based on the violations alleged in this case.
5. JR consents to the filing of the Consent Agreement and an Order and hereby waives any further procedural requirements with respect to the issuance of the Order. Provided the Commission adopts this Consent Agreement and issues an Order consistent with it, JR 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.
6. JR agrees to provide the Commission with a U.S. Department of the Treasury Internal Revenue Service Form W-9 for purposes of the identification requirement of Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), the performance is restitution, remediation, or an amount paid to come into compliance with the law. The Form W-9 must be provided within ten (10) business days of service of an Order accepting or approving the Consent Agreement.
7. There are no covenants, promises, undertakings, or understandings other than specifically set forth in this Consent Agreement and Order.
8. This agreement may be executed in counterparts and duplicate copies, each of which shall be deemed to be an original, and which, when taken together, shall constitute one and the same instrument.

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

Dated this 24th day of February, 2025

PUBLIC SERVICE COMMISSION
ADVOCACY STAFF – DAMAGE PREVENTION

By:  _____

Brian Johnson
Special Assistant Attorney General (Bar ID 07937)
Public Service Commission
600 E. Boulevard Ave., Dept. 408
Bismarck, ND 58505-0480
701-328-2407

Dated this 24th day of February, 2025

JR Civil LLC

By:  _____

Alex Heesch, Project Manager
JR Civil LLC
P.O. Box 51330
Billings, MT 59105-1330

Corporation Service Company
Registered Agent for JR Civil LLC
418 N 2nd St.
Bismarck, ND 58501