

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
Picard Excavating, Inc.
Damage Prevention Enforcement**

Case No. DM-24-334

**Public Service Commission
Picard Excavating, Inc.
Damage Prevention Enforcement**

Case No. DM-24-355

**Public Service Commission
Picard Excavating, Inc.
Damage Prevention Enforcement**

Case No. DM-24-356

**Public Service Commission
Picard Excavating, Inc.
Damage Prevention Enforcement**

Case No. DM-24-357

ORDER ON CONSENT AGREEMENT

July 2, 2025

Preliminary Statement

Picard Excavating, Inc. (Picard) is a domestic corporation with a principal address of 1820 1st Street SE, Minot, North Dakota 58701.

Between September 10, 2024, and October 11, 2024, the Commission received four North Dakota One-Call Complaints (Complaints). One from Alicia Diede, a nearby resident, and three from Montana-Dakota Utilities Co. (MDU). The Complaints allege that on three separate occasions (Case Nos. DM-24-355, DM-24-356, and DM-24-357), Picard violated North Dakota Century Code (N.D.C.C.) § 49-23-05(5) of the One-Call Excavation Notice System by failing to conduct the excavation in a careful and prudent manner. Case No. DM-24-334, submitted by a local resident, includes the events of the previous three cases and is included as a reference only.

On March 5, 2025, Staff received a response from Picard acknowledging that Picard struck the MDU facilities.

On June 25, 2025, a Consent Agreement between Public Service Commission Advocacy Staff (Advocacy Staff) and Picard 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.”

Having investigated the alleged violations, Staff believes Picard violated N.D.C.C. § 49-23-05(5) by failing to conduct the excavation in a careful and prudent manner.

Picard 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 Picard and Advocacy Staff filed with the Commission on June 25, 2025, is approved. A copy of the Consent Agreement is attached to and made a part of this Order on Consent Agreement (Order).
2. Picard is assessed a civil penalty of \$3,300 (\$1,100 in Case No. DM-24-355, \$1,100 in Case No. DM-24-356, and \$1,100 in Case No. DM-24-357).
3. Picard shall remit the \$3,300 civil penalty (\$1,100 in Case No. DM-24-355, \$1,100 in Case No. DM-24-356, and \$1,100 in Case No. DM-24-357), payable to the North Dakota Public Service Commission, within ten (10) business days of service of this Order.
4. Picard 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
Picard Excavating, Inc.
Damage Prevention Enforcement

Case No. DM-24-334

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Public Service Commission
Picard Excavating, Inc.
Damage Prevention Enforcement

Case No. DM-24-357

PUBLIC SERVICE COMMISSION,)
)
 Complainant,)
)
 vs.)
)
 Picard Excavating, Inc.)
)
 Respondent.)

CONSENT AGREEMENT

This Consent Agreement is entered into by and between Picard Excavating, Inc. (Picard) and the Public Service Commission (Commission) Advocacy Staff (Staff) (together, the Parties) for resolution of Case Nos. DM-24-334, DM-24-355, DM-24-356, and DM-24-357.

Preliminary Statement

Between September 10, 2024, and October 11, 2024, the Commission received four North Dakota One-Call Complaints (Complaints). One from Alicia Diede, a nearby resident, and three from Montana-Dakota Utilities Co. (MDU). The Complaints allege that on three separate occasions, Picard violated North Dakota Century Code (N.D.C.C.) § 49-23-05(5) of the One-Call Excavation Notice System by failing to conduct the excavation in a careful and prudent manner.

On March 5, 2025, Staff received a response from Picard acknowledging that Picard struck the MDU facilities.

Discussion

Between September 5 and 9, 2024, Picard was conducting an excavation to install sewer and water lines at 2405 15th Street NW, Minot, North Dakota under an active one-call ticket and struck and damaged MDU facilities on three separate occasions.

On September 5, 2024, at approximately 8:40 AM, Picard struck and damaged an MDU 2" natural gas main causing an outage to eight customers.

On September 5, 2024, at approximately 12:00 PM, Picard struck and damaged the same MDU 2" natural gas main a second time causing an outage to eight customers.

On September 9, 2024, at approximately 12:00 PM, Picard struck and damaged the same MDU 2" natural gas main a third time causing an outage to eight customers.

Violation: Failure to Conduct the Excavation in a Careful and Prudent Manner

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.”

Having investigated the alleged violations, Staff believes Picard violated N.D.C.C. § 49-23-05(5) by failing to conduct the excavation in a careful and prudent manner.

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. Picard violated N.D.C.C. § 49-23-05(5) by failing to conduct the excavation in a careful and prudent manner.
2. Picard agrees to be assessed a civil penalty of \$3,300.
3. Picard agrees to remit the \$3,300 civil penalty, payable to the North Dakota Public Service Commission within ten (10) business days of service of an Order accepting or approving the Consent Agreement.

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. Picard 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, Picard 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. Picard agrees to provide the Commission with a U.S. Department of the Treasury Internal Revenue Service Form W-9 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 Picard and bind Picard for the purposes of this Consent Agreement and knows and fully understands the content and effect.

Dated this 25 day of June, 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 24 day of June, 2025

Picard Excavating, Inc.

By: 

Taylor Picard, Owner
Picard Excavating, Inc.
1820 1st St SE
Minot, ND 58701