

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission,**

**Case No. GS-12-31**

**Complainant,**

**vs.**

**Shores Companies, Inc.**

**Respondent.**

**COMPLAINT**

The North Dakota Public Service Commission Staff (Staff), for its complaint against Shores Companies, Inc., alleges and shows the following:

I

Shores Companies, Inc. (Shores) is a Minnesota corporation with principle offices at 14260 Berg Road NW, Evansville, MN 56326-8201.

II

Belle Fourche Pipeline Company (Belle Fourche) is a Wyoming corporation with principle offices at 455 N Poplar PO Box 2360, Casper, WY 82602-2360.

III

On December 23, 2011, the Public Service Commission (Commission) received a Third Party Damage Complaint from Belle Fourche. The third party complaint alleged a violation by Shores of North Dakota Century Code Chapter 49-23.

IV

Based on Staff's investigation, Shores originally obtained North Dakota One Call (One Call) ticket number 11133777 on October 14, 2011 for work to begin on October 18, 2011.

V

As alleged by Belle Fourche, a Belle Fourche employee located the path of its facility with pin flags on October 17, 2011.

VI

As alleged by Belle Fourche, a Belle Fourche employee agreed to meet with Shores at the excavation site at 2:00 pm on October 17, 2011. The Belle Fourche employee left after waiting for one hour after the agreed upon time. No other communication to have a Belle Fourche employee on site during excavation was made.

VII

As alleged by Belle Fourche, Shores struck the Belle Fourche line on November 13, 2011 causing approximately 200 barrels of crude oil to be spilled in Stark County, North Dakota, 30 days after obtaining its One Call ticket.

VIII

Based on Staff's investigation, Shores did not update its original One Call ticket until November 16, 2011 with ticket number 11155260, three days after striking the Belle Fourche line.

IX

North Dakota Century Code § 49-23-04(3) states:

An excavator may not use a location more than ten days, or any extension of that period, after the planned excavation date unless the excavator had made previous arrangements with the operators affected.

X

Shores violated North Dakota Century Code Chapter 49-23 by failing to contact One Call and provide an updated excavation or location notice.

XI

The North Dakota Public Service Commission Damage Prevention Plan states:

**D PROPOSED CIVIL PENALTIES:**

1. The following criteria must be used by Commission staff to determine if a civil penalty should be proposed when filing a formal complaint:
  - a. The nature, circumstances and severity of the complaint;
  - b. The degree of suspected fault on the part of the respondent;
  - c. The respondent's history of prior violations or complaints;
  - d. The respondent's ability to pay;
  - e. Any good faith effort by the respondent in attempting to achieve compliance; and
  - f. The effect the penalty may have on the respondent's ability to continue in business.

XII

North Dakota Century Code § 49-07-01.1 states:

Any person who violates any statute, commission order, or commission rule which applies to matters within the authority of the commission under chapters 8-08, 8-09, 8-10, 24-09, 32-25, and 51-05.1, titles 60 and 64, and title 49 except for chapter 49-22, shall, in addition to any other penalty provided, be subject to a civil penalty of not to exceed five thousand dollars. The civil penalty may be compromised by the commission. The amount of the penalty when finally determined or agreed upon in compromise, if not paid, may be recovered in a civil action in the courts of this state.

### XIII

Using the above criteria, Belle Fourche alleges the oil line was compromised resulting in approximately 200 barrels of crude oil to be spilled.

### XIV

Through phone discussions with Staff, Shores acknowledged it had violated North Dakota Century Code Chapter 49-23 by failing to contact One Call and provide an updated excavation or location notice.

### XV

The Commission does not have on record any history of previous violations or complaints for this excavator.

### XVI

Shores has not made a good faith effort in attempting to achieve compliance with North Dakota Century Code Chapter 49-23.

### XVII

Shores made no indications towards its ability to pay a fine or the effect the penalty may have on its ability to continue in business.

### XVIII

North Dakota Century Code section 28-32-21(e) requires that an answer to this complaint must be served upon the Commission within twenty days after service of the complaint, or the Commission may deem the complaint to be admitted. If Shores fails to answer within twenty days after service of the complaint, the Commission may deem

the Complaint admitted. Answers must be served in the manner allowed for service under the North Dakota Rules of Civil Procedure.

**Prayer for Relief**

Wherefore, Public Service Commission Staff seeks the following relief:

1. That the Commission find Shores in violation of North Dakota Century Code Chapter 49-23 for failing to comply with the One Call procedures outlined in North Dakota Century Code § 49-23-04.
2. That the Commission impose a civil penalty in the amount of \$2,000.00.
3. Such other relief that the Commission finds just and proper.

Dated this **23rd day of August 2012**.



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