



Public Service Commission

State of North Dakota

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January 22, 2013

Shane Swanson
Westway Trading Company
304 Probstfield St.
Georgetown MN 56546

Re: Third Party Damage Complaint (Case No. PU-13-36)

Dear Mr. Swanson:

Enclosed is a copy of a Third Party Damage Complaint received by the North Dakota Public Service Commission (Commission) on January 14, 2013 from Otter Tail Power Company. The location of the excavation was at 16450 36th St SE, Mapleton, North Dakota.

Please respond to the Commission by **February 6, 2013**, with your written account of the event. Your response, the complaint, and other available information will be reviewed to determine whether Commission staff will file a formal complaint.

Your response should also address the following criteria used to determine the amount of civil penalty, if any, to be recommended by Commission staff as part of a formal complaint:

- a) The nature, circumstances and severity of the complaint;
- b) The degree of suspected fault on the part of the excavator;
- c) Excavator's history of prior violations or complaints;
- d) Excavator's ability to pay;
- e) Any good faith effort by the excavator in attempting to achieve compliance; and
- f) The effect the penalty may have on the excavator's ability to continue in business.

North Dakota Century Code section 49-07-01.1 provides for a civil penalty not to exceed five thousand dollars for violations of the One Call law.

If you have any questions please call me at 701-328-4077 or e-mail to pfahn@nd.gov.

Best regards,

Patrick Fahn, Director
Compliance and Competitive Markets



THIRD PARTY DAMAGE COMPLAINT
Public Service Commission
SFN 59067 (11-12)

PART A – WHO IS SUBMITTING THIS COMPLAINT

Information Being Submitted By <input type="checkbox"/> Individual <input checked="" type="checkbox"/> Company*	Company/Organization Otter Tail Power Co.	Person Filing Information Scott Fritz	Position One Call Adm./Civil Design	
Address of Person Filing Information 215 S Cascade St	City Fergus Falls	State Mn	Zip Code 56537	
Telephone Number 218-739-8521	Email Address sfritz@otpc.com	Date 1/9/13		

PART B – WHO ALLEGEDLY VIOLATED THE ONE-CALL REGULATIONS

Name of Excavator Shane Swanson		Telephone Number 701-212-5400	
Address 304 Probstfield St	City Georgetown	State Mn	Zip Code 56546
Name of Entity for Which Excavation Was Performed Westway Trading Company		Telephone Number	
Address 16450 36th St SE	City Mapleton	State ND	Zip Code 58059

PART C – TIME AND LOCATION OF THE EVENT

Date and Time of Event December 26th	Address of the Excavation and/or Damage 16450 36th St SE		
County Cass	City Mapleton	State ND	Zip Code 58059

PART D – FACILITY INVOLVED

Type of Facility Involved Electric Utility	Operator of Facility and Contact Person (if known) Otter Tail Power Company		
Address 2111 15th St N	City Wahpeton	State Nd	Zip Code 58075
Telephone Number 701-642-6684	Email Address (if known) GCoyne@otpc.com		
Brief Description of Facility Involved On Dec 26, 2012 we were called to Westway Trading Co. in Mapleton, Nd. as they were single phasing. Otter Tail Power used fault locating equipment and determined the fault was located under a concrete pier that was recently installed. Personnel contacted Westway who in turn contacted contractor who admitted he did not call in a locate. He stated the owner of the building told him it was clear to dig. We will be sending a bill for our time on December 26th with an estimated cost of \$4400.00 to the contractor and notifying the North Dakota Public Service Commission as the work was done without a locate. Pictures of the site are available and will be sent to the appropriate ND PUC contacts.			

MAPLETON, ND,

WAMP. EDR,

PART E – DAMAGE (If applicable)

Fatalities None	Injuries None	Length of Hospitalization, If Applicable None
Estimated Value of Property Damage: \$ \$4400		Number of Customers Affected 1?
Damaged Within <input type="checkbox"/> Public Property <input checked="" type="checkbox"/> Private Property		Photos of Damaged Facility <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If yes, please include copies)

PART F – EXCAVATION

Was a locate requested from North Dakota One-Call? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown	Locate Ticket Number	Start Date on Ticket
Did excavator wait until the start date/time on the ticket before commencing excavation? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> N/A		
Were buried facilities exposed by hand or non-invasive equipment prior to excavation? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A		

PART G – MARKING

Were facilities marked?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> N/A
Were utility/facility marks visible in the area of excavation?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> N/A
Were the utility/facilities marked correctly?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> N/A
Was the marking complete prior to the start time on the ticket?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> N/A
Did the excavator pre-mark with white paint?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> N/A
Was the facility marked accurately within 24 inches horizontally?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> N/A
Did the excavator use reasonable care to maintain locate marks for the life of project?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> N/A

PART H – DESCRIPTION OF EVENT

Description of Event
<p>On Dec 26, 2012 we were called to Westway Trading Co. in Mapleton, Nd. as they were single phasing. Otter Tail Power used fault locating equipment and determined the fault was located under a concrete pier that was recently installed. Personnel contacted Westway who in turn contacted contractor who admitted he did not call in a locate. He stated the owner of the building told him it was clear to dig. We will be sending a bill for our time on December 26th with an estimated cost of \$4400.00 to the contractor and notifying the North Dakota Public Service Commission as the work was done without a locate. Pictures of the site are available and will be sent to the appropriate ND PUC contacts.</p>