



# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

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March 22, 2013

Barry Haugen, Executive Vice President and Chief Operating Officer  
WBI Energy Transmission, Inc.  
1250 West Century Ave  
Bismarck ND 58503

Re: Third Party Damage Complaint (Case No. PU-13-129)

Mr. Haugen,

Enclosed is a copy of a Third Party Damage Complaint received by the North Dakota Public Service Commission (Commission) on March 20, 2013 from the North Dakota Gas Pipeline Safety Inspector /Program Manager. The location of the excavation was 3.5 miles south of Taylor, North Dakota.

Please respond to the Commission by April 5, 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](mailto: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 North Dakota Public Service Commission	Person Filing Information Aaron Morman	Position North Dakota State Gas Pipeline Safety Inspector/Program Manager	
Address of Person Filing Information 12th Floor, Dept 408, 600 E Boulevard	City Bismarck	State ND	Zip Code 58505-0480	
Telephone Number 701-220-5779 call 701-328-4077 office	Email Address aarmorman@nd.gov	Date 3-19-2013		

**PART B – WHO ALLEGEDLY VIOLATED THE ONE-CALL REGULATIONS**

Name of Excavator See Part H, Description of Event		Telephone Number	
Address	City	State	Zip Code
Name of Entity for Which Excavation Was Performed		Telephone Number	
Address	City	State	Zip Code

**PART C – TIME AND LOCATION OF THE EVENT**

Date and Time of Event 1/28/2013, 16:35 MST	Address of the Excavation and/or Damage 3810 84th Ave SW, 3.5 miles South of Taylor, ND Latitude 46 Deg 50' 51"N / Longitude 102 Deg 102' 25" W		
County Stark	City Taylor	State ND	Zip Code 58656

**PART D – FACILITY INVOLVED**

Type of Facility Involved Interstate Natural Gas 2" Transmission Pipeline	Operator of Facility and Contact Person (if known) WBI Energy Transmission, Inc.		
Address 1250 West Century Ave	City Bismarck	State ND	Zip Code 58506-5601
Telephone Number 701-530-1600	Email Address (if known) kent.kahl@wbienenergy.com		
Brief Description of Facility Involved WBI Energy Transmission (WBI) 2" Steel High Pressure Lateral Transmission Pipeline located 3.5 miles South of Taylor, ND.			

**PART E – DAMAGE (If applicable)**

Fatalities 0	Injuries 0	Length of Hospitalization, If Applicable N/A
Estimated Value of Property Damage: \$ See Part H, Description of Event		Number of Customers Affected 100
Damaged Within <input type="checkbox"/> Public Property <input checked="" type="checkbox"/> Private Property		Photos of Damaged Facility <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If yes, please include copies)

**PART F – EXCAVATION**

Was a locate requested from North Dakota One-Call?	
<input checked="" type="checkbox"/> Yes    Locate Ticket Number <b>13004602</b> Start Date on Ticket <b>1/24/2013</b> <input type="checkbox"/> No <input type="checkbox"/> Unknown	
Did excavator wait until the start date/time on the ticket before commencing excavation?	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input 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 checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Were utility/facility marks visible in the area of excavation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Were the utility/facilities marked correctly?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Was the marking complete prior to the start time on the ticket?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Did the excavator pre-mark with white paint?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> N/A
Was the facility marked accurately within 24 inches horizontally?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown <input 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 checked="" type="checkbox"/> Unknown <input type="checkbox"/> N/A

**PART H – DESCRIPTION OF EVENT**

<p>Description of Event</p> <p>I received a phone call from Kent Kahl, D.O.T. Compliance supervisor for WBI Energy Transmission, Inc. (WBI) on January 28, 2013 at 9:04 PM CST, to report that a 2" Steel Lateral Transmission Line owned by WBI had been damaged by excavation activities 3.5 miles South of Taylor, ND in Stark County. The time the line was hit and punctured was at 5:35 PM CST. The 2" lateral transmission line feeds natural gas to about 100 residential and commercial customers in the town of Taylor, ND. The gas to the affected customers was shut off at 9:00 PM CST. The Local Distribution Company (LDC) dispatched personnel to the town of Taylor to shut off gas to customers until the gas supply was restored by WBI at which time the LDC would reestablish gas service to the affected customers. Repairs to the WBI transmission line were completed at 11:55 PM MST at which time the gas was restored to the LDC. The LDC then proceeded to relight their customers. The last customer was relit at 6:00 PM MST on January 29, 2013.</p> <p>The cause of the incident by WBI's admission, was that their locate technician failed to locate the 2" lateral line as was required. The excavation contractor, Aevenia, was trenching for installation of an electrical mainline. WBI was called as soon as was reasonably possible by the excavator and WBI dispatched personnel to the damaged location. There were no injuries, explosions or fires as a result of the incident.</p>
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Description of Event Continued

The damaged area was secured and protected by the excavation contractor to protect the public and property as was necessary until WBI arrived on the scene. Kent Kahl of WBI admitted the error was on the part of WBI, and stated the contract excavator was not at fault as they had no knowledge of the location of the lateral line prior to the time it was hit. WBI had located and marked the Main transmission line in the area but that is not where the excavation was to take place. As of this date, I have not received an estimate of the costs incurred by the LDC or WBI.

According to North Dakota One-Call Excavation Notice System Chapter 49-23-04, the approximate horizontal location of the underground facilities is a strip of land two feet (90.6 centimeters) on either side of the underground facilities. WBI failed to follow this in regards to locating and marking the 2" lateral transmission line that was damaged.

**PART I - SIGNATURE**

Signature of Person Filing Complaint



Date

March 19, 2013

Please include additional documents and photos, if applicable.

\*If you are filing on behalf of a company, please provide information supporting your authority to file this complaint.

Send Completed, Original Complaint To:

Public Service Commission  
600 E Boulevard Ave Dept 408  
Bismarck ND 58505-0480  
Telephone: (701) 328-2400

**Email to the Commission**