



# Public Service Commission

## State of North Dakota

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June 20, 2013

Northwest Communications Cooperative  
Attn: Jason Hill, Construction Supervisor  
111 Railroad Avenue  
Ray, ND 58849

Re: Third Party Damage Complaint (Case No. PU-13-278)

Dear Mr. Hill:

This letter acknowledges that you filed a Third Party Damage Complaint on behalf of Northwest Communications Cooperative with the North Dakota Public Service Commission on June 5, 2013 in regards to your receipt of numerous requests to locate facilities for Loenbro Construction Company in the vicinity of 93<sup>rd</sup> Avenue in Cleary and Leaf Mountain townships.

We investigated your complaint and did find that in two cases four tickets have been issued for the same section of line and in one case, eight tickets were issued for the same section. We talked to Loenbro Construction who stated that they were asked to keep open tickets in order that the pipeline owner would not have to wait for a one call ticket if they found a leak when they tested the pipeline upon completion and as a result needed to reopen an area.

There is nothing in the current statute that prevents this action. However, on August 1, 2013 changes to the One Call law as a result of House Bill No. 1359 will become effective that should alleviate this issue from reoccurring in the future. The changes to NDCC 49-23-04(3) (h) and (l) are as follows:

h. If excavation has not occurred within the initial twenty-one days of the locate, the excavator shall request that the facility be relocated before excavating unless other arrangements have been made with the underground facility owner. Upon the third locate request at the same excavation site where no excavation has occurred after the initial two locates, the excavator is responsible for reasonable costs associated with relocating facilities in that location.

i. If a relocate request is made for an area which includes areas where excavation has been completed, a request for relocate must be modified from the original locate request to reflect only the area to be excavated during each subsequent twenty-one-day period, otherwise the excavator is responsible for reasonable costs associated with relocating facilities in the location.

2      **PU-13-278**      Filed: 6/20/2013      Pages: 2  
**Letter acknowledging filing of Third Party Damage Complaint**

Public Service Commission Staff

Sara Cardwell

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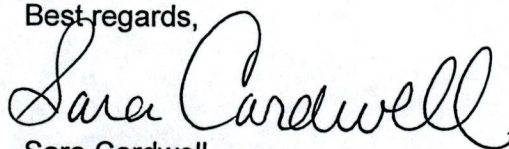
Northwest Communications Cooperative

June 20, 2013

In Summary, Commission staff does not find that the actions of Loenbro Construction Company, as described in your complaint, are a violation of NDCC 49-23 as currently written.

If you have any questions please call me at 701-328-4052 or e-mail me at [scardwell@nd.gov](mailto:scardwell@nd.gov).

Best regards,

A handwritten signature in cursive script that reads "Sara Cardwell". The signature is written in black ink and is positioned above the typed name and title.

Sara Cardwell  
Public Utility Analyst  
North Dakota Public Service Commission

cc: Loenbro Construction