

# Memorandum

To: Commissioners Kalk, Christmann and Fedorchak

From: Sara Cardwell, Public Utility Analyst SC

Date: June 28, 2013

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

On June 5, 2013, a Third Party Damage Complaint was received from Northwest Communications Cooperative alleging that Loenbro, Inc. violated North Dakota Century Code Chapter 49-23 One-Call Excavation Notice System law by making requests in areas where locates had already been done and were still marked, or work had been completed.

Staff investigation found that, in two cases, four tickets had been issued for the same section of line and that, in one case, eight tickets were issued for the same section and the underground facility operators were revisiting sites where at some point, in the series of tickets issued, the pipeline had been laid and covered. Staff learned that Loenbro was asked by the party building the pipeline to keep active locate tickets so that, should a leak be found when the pipeline was tested, the pipeline could be repaired immediately and the owner would not have to wait 48 hours for a locate.

Staff responded to Northwest Communications Cooperative (with a copy to Loenbro) that there is nothing in the current statute to prevent this activity. Staff also noted that, 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 in the future. Staff does not find the actions of Loenbro a violation of NDCC 49-23.

Staff recommends that no further action be taken and the case be closed.