

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF NORTH DAKOTA**

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**Public Service Commission  
Diamond Willow Energy, LLC  
Damage Prevention Enforcement**

**Case No. PU-18-199**

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<b>Public Service Commission,</b>	)	
<b>Complainant,</b>	)	
	)	
<b>vs.</b>	)	
	)	<b>Complaint</b>
<b>Diamond Willow Energy, LLC,</b>	)	
<b>Respondent.</b>	)	

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The Public Service Commission of North Dakota, by and through Advocacy Staff (Staff), for its complaint against Diamond Willow Energy, LLC, alleges the following:

I

Diamond Willow Energy, LLC, (DWE) is a North Dakota limited liability company with offices located at 301 1<sup>st</sup> Ave E, New Town, ND 58763, and a registered agent address of Frederica Smith, 3200 Southridge Ln, Bismarck, ND 58504-9622.

II

Arrow Pipeline, LLC (Arrow) is a foreign corporation authorized to do business in North Dakota.

III

North Dakota Century Code section 49-23-04(1) provides:

Except in an emergency, an excavator shall contact the notification center and provide an excavation or location notice before beginning any

excavation. An excavation begins the first time excavation occurs in an area that was not previously identified by the excavator in an excavation notice.

#### IV

On June 8, 2018, the Commission received a ND One-Call Complaint from Monica Howard, at Arrow. The complaint alleges a violation by DWE of North Dakota Century Code section 49-23-04(1) of the One-Call Excavation Notice System by failing to contact the notification center and provide an excavation or location notice before beginning any excavation.

#### V

On June 13, 2018, Commission staff issued a letter informing DWE of Arrow's complaint filing, and requested a response by June 27, 2018. As of February 12, 2019 no response was received.

#### VI

On or about June 6, 2018 at approximately 1:30PM, DWE personnel began an excavation with a hydrovac machine to expose a pipeline within one mile of coordinates 47.72297778, -102.34388889. As a result of this excavation, damage was caused by DWE's hydrovac equipment to Arrow's 8 inch natural gas and 6 inch crude oil pipelines. Arrow learned of the damage because they noticed what appeared to be excavation activity near their pipelines and approached the site to investigate. The cost to repair the coating on Arrow's pipelines was approximately \$70,805.65.

VII

There was no agreement between DWE and Arrow under North Dakota Century Code section 49-23-04(1) prior to excavation that would relieve DWE of its obligation to contact the notification center and provide an excavation or location notice before beginning any excavation.

VIII


DWE violated North Dakota Century Code section 49-23-04(1) by failing to contact the notification center and provide an excavation or location notice before beginning any excavation.

**Prayer for Relief**

Based on the foregoing, Staff seeks the following relief:

1. That the Commission find DWE in violation of North Dakota Century Code ch.49-23 for failing to comply with the One Call requirements enumerated in North Dakota Century Code section 49-23-04(1).
2. That the Commission impose an appropriate civil penalty up to \$25,000, but at least \$4,600.
3. Such other relief that the Commission finds just and proper.

Dated this 25<sup>th</sup> day of February, 2019



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and

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The Respondent must serve an answer to this complaint upon the Complainant and the Commission within twenty days after service of the complaint, or the Commission may deem the complaint to be admitted.