

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
ONEOK Rockies Midstream, L.L.C.
Damage Prevention Enforcement**

Case No. PU-18-346

**Public Service Commission
ONEOK Rockies Midstream, L.L.C.
Damage Prevention Enforcement**

Case No. PU-18-349

AFFIDAVIT OF SERVICE BY CERTIFIED AND REGULAR MAIL

**STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH**

Geralyn R. Schmaltz deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **12th day of April 2019**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

- **Order On Consent Agreement**

The envelope was addressed as follows:

Craig Forsander
Vice President, Operations
ONEOK, Inc.
100 W. Fifth Street
Tulsa, OK 74103
Cert. No. 7018 2290 0000 6607 8022

Geralyn R. Schmaltz further deposes and says tha on the **12th day of April 2019**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope by first class mail, fully prepaid, securely sealed each containing a photocopy of of the same document.

The envelope was addressed to:

Donnie Gillett
Loenbro Pipeline
5831 123rd Drive NW
Epping, ND 58843

8 **PU-18-349** Filed: 4/12/2019 Pages: 9
**Affidavit of Service, Cert. and Reg. Mail - Order on
Consent Agreement**

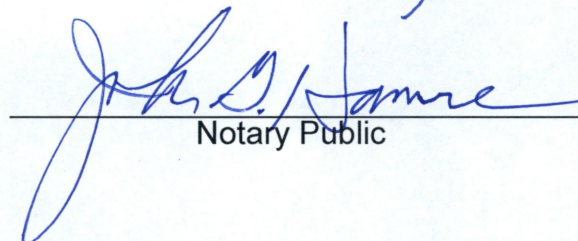
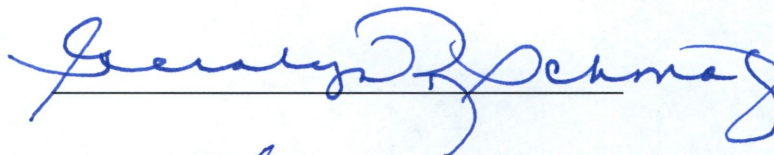
Public Service Commission

8 **PU-18-346** Filed: 4/12/2019 Pages: 9
**Affidavit of Service, Cert. and Reg. Mail - Order on
Consent Agreement**

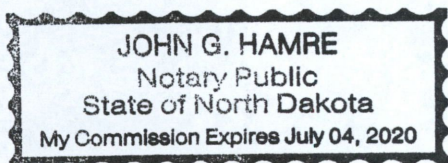
Public Service Commission

The addresses shown are the respective addressee's last reasonably ascertainable post office addresses.

Subscribed and sworn to before me
this **12th day of April 2019**.



Notary Public



SEAL

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
ONEOK Rockies Midstream, L.L.C.
Damage Prevention Enforcement

Case No. PU-18-346

Public Service Commission
ONEOK Rockies Midstream, L.L.C.
Damage Prevention Enforcement

Case No. PU-18-349

ORDER ON CONSENT AGREEMENT

April 11, 2019

Preliminary Statement

On September 14, 2018, the Commission received a ND One-Call Complaint from Loenbro Pipeline (Loenbro) alleging a violation by ONEOK Rockies Midstream, L.L.C. (ONEOK) of North Dakota Century Code chapter 49-23: One-Call Excavation Notice System, Case No. PU-18-346.

On September 19, 2018, the Commission sent a letter to ONEOK enclosing the September 14, 2018 ND One-Call Complaint.

On October 3, 2018, ONEOK filed a response to the September 14, 2018 ND One-Call Complaint.

On September 19, 2018, the Commission received a ND One-Call Complaint from Loenbro alleging a violation by ONEOK of North Dakota Century Code chapter 49-23: One-Call Excavation Notice System Case No. PU-18-349.

On September 19, 2018, the Commission sent a letter to ONEOK enclosing the September 19, 2018 ND One-Call Complaint.

On October 3, 2018, ONEOK filed a response to the September 19, 2018 ND One-Call Complaint.

On March 28, 2019, a Consent Agreement between Public Service Commission Advocacy Staff (Advocacy Staff) and ONEOK was filed for the resolution of the complaints.

Discussion

ONEOK Rockies Midstream, L.L.C. is a foreign limited liability company with office(s) located at 100 West 5th Street, Tulsa, Oklahoma 74103-4279.

In Case No. PU-18-346 and in Case No. PU-18-349, Loenbro alleges violations by ONEOK of North Dakota Century Code section 49-23-04(6)(a) for failure to locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator within the location period or as agreed by the parties.

North Dakota Century Code section 49-23-04(6)(a) provides that "An operator with underground facilities within the area of a location request shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator within the location period or as agreed by the parties."

As a result of its investigation, Advocacy Staff concluded that ONEOK violated North Dakota Century Code section 49-23-04(6)(a) in Case No. PU-18-346 and Case No. PU-18-349.

ONEOK and Advocacy Staff engaged in good faith settlement discussions resulting in a Consent Agreement intended to avoid further administrative proceedings or litigation.

Under the Consent Agreement, ONEOK agrees to be assessed a civil penalty of \$1,000 in Case No. PU-18-346 and \$1,000 in Case No. PU-18-349, for a total of \$2,000 payable to the North Dakota Public Service Commission within ten business days of service of this Order on Consent Agreement (Order).

Having considered this matter, the Commission finds the Consent Agreement filed on March 28, 2019, is reasonable and acceptable. Therefore, the Commission issues the following:

Order

The Commission Orders:

1. The Consent Agreement of ONEOK and Advocacy Staff, filed March 28, 2019, is approved. A copy of the Consent Agreement is attached to and made a part of this Order.
2. ONEOK is assessed a civil a penalty of \$2,000.

3. ONEOK shall remit \$2,000 civil penalty, payable to the North Dakota Public Service Commission within ten business days of service of this Order.

PUBLIC SERVICE COMMISSION


Julie Fedorchak
Commissioner


Brian Kroshus
Chairman


Randy Christmann
Commissioner

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION,)	
)	
Complainant,)	Case No. PU-18-346
)	PU-18-349
vs.)	
)	CONSENT AGREEMENT
ONEOK Rockies Midstream, L.L.C.,)	
)	
Respondent .)	

Preliminary Statement

This Consent Agreement is entered into by and between ONEOK Rockies Midstream, L.L.C. (ONEOK) and the Public Service Commission Advocacy Staff (Staff) (together, the "Parties") for resolution of Docket Nos. PU-18-346 and PU-18-349.

Case No. PU-18-346: On September 14, 2018, the Commission received a ND One-Call Complaint from Loenbro Pipeline, LLC (Loenbro). The complaint alleged a violation by ONEOK of North Dakota Century Code section 49-23-04(6)(a) for failure to locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator within the location period or as agreed by the parties.

Case No. PU-18-349: On September 19, 2018, the Commission received a ND

One-Call Complaint from Loenbro. The complaint alleged a violation by ONEOK of North Dakota Century Code section 49-23-04(6)(a) for failure to locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator within the location period or as agreed by the parties.

North Dakota Century Code section 49-23-04(6)(a) provides that "An operator with underground facilities within the area of a location request shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator within the location period or as agreed by the parties."

Having investigated the alleged violations, Staff believes that ONEOK violated North Dakota Century Code section 49-23-04(6)(a) in Case No. PU-18-346 and in Case No. PU-18-349. (Cases PU-18-346 and PU-18-349 are collectively referred to as the "Cases.")

ONEOK and Staff engaged in good faith settlement discussions resulting in this Consent Agreement. Having agreed that settlement of this proceeding will avoid further administrative proceedings or litigation and that entry of this Consent Agreement is the most appropriate means of resolving this administrative action, Staff and ONEOK agree to the following, subject to the approval and acceptance of the Commission:

1. ONEOK, without conceding a violation occurred, will not contest Staff's determination that it violated North Dakota Century Code section 49-23-04(6)(a) in Case No. PU-18-346 by failing to locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator within the location period or as agreed by the parties.

2. ONEOK, without conceding a violation occurred, will not contest Staff's determination that it violated North Dakota Century Code section 49-23-04(6)(a) in Case No. PU-18-349 by failing to locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator within the location period or as agreed by the parties.
3. ONEOK agrees to be assessed a civil penalty of \$1,000 in Case No. PU-18-346 and \$1,000 in Case No. PU-18-349 for a total of \$2,000, payable to the North Dakota Public Service Commission within ten business days of service of an Order Adopting Consent Agreement (Order). Staff agrees no other proceeding will be initiated and no other remedy or penalty will be sought based on the violations alleged in the Cases.
4. ONEOK consents to the filing of the Consent Agreement and an Order in the Cases and hereby waives any further procedural requirements with respect to the Order's issuance. Provided the Public Service Commission adopts this Consent Agreement and issues an Order consistent with it, ONEOK understands and agrees in the Cases to waive all rights to contest the violations, the right to be represented by counsel, the right to present evidence and arguments to the Commission, the right to cross examine witnesses, or contest the validity of this Consent Agreement and Order Adopting this Consent Agreement, including all rights to administrative or judicial hearings or appeals.
5. There are no covenants, promises, undertakings, or understandings other than specifically set forth in this Agreement and Order.

6. This agreement may be executed in counterparts and duplicate copies, each which shall be deemed to be an original, and which, when taken together, shall constitute one and the same instrument.
7. The undersigned is authorized to act on behalf of ONEOK and bind ONEOK for purposes of this Consent Agreement, and knows and fully understands the content and effect.

Dated this 27th day of March, 2019

PUBLIC SERVICE COMMISSION
ADVOCACY STAFF – DAMAGE PREVENTION

By: 

John M. Schuh
Advocacy Counsel
12th Floor, Dept. 408
600 Boulevard Ave.
Bismarck, ND 58505-0480

Dated this 26th day of March, 2019

ONEOK Rockies Midstream L.L.C.

By: 

Craig A. Forsander
Vice President, Operations
ONEOK, Inc.
100 W. Fifth Street
Tulsa, OK 74103

