

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Dakota Services / Muriel Close
Damage Prevention Enforcement

Case No. PU-19-113

ORDER AND NOTICE ON DEFAULT

March 18, 2020

Preliminary Statement

On April 1, 2019, the Commission received a ND One-Call Complaint from the city of Arnegard, North Dakota, alleging a violation by Dakota Services of North Dakota Century Code chapter 49-23: One-Call Excavation Notice System.

On April 4, 2019, the Commission sent a letter to Dakota Services enclosing the April 1, 2019 N.D. One-Call Complaint.

On June 18, 2019, Dakota Services filed a response to the One-Call Complaint.

On September 12, 2019, Commission Advocacy Staff (Advocacy Staff) filed a Formal Complaint alleging Dakota Services 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, requesting the Commission find Dakota Services in violation and impose a penalty.

On October 22, 2019, the Commission found the Formal Complaint stated a *prima facie* case.

On October 24, 2019, the Commission served the Formal Complaint on Dakota Services.

On January 2, 2020, Dakota Services received the Formal Complaint as evidenced by the return receipt on file with the Commission.

On February 26, 2020, Advocacy Staff filed and served a Motion and Notice of Motion for Order of Default.

Discussion and Statement of Grounds for Default

Dakota Services is a trade name wholly owned by Muriel O Close whose mailing address is PO BOX 921, Watford City, ND, 58854-0921.

On March 29, 2019, Dakota Services personnel began an excavation to re-level a structure at 215 Frontage Road, Arnegard, ND. No excavation notice was found in the ND One-Call system for this time period, nor was one provided by Dakota Services. No damage was caused as a result of this excavation.

Dakota Services 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.

North Dakota Century Code section 49-23-04(1) provides that “[e]xcept 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.”

The facts before the Commission indicate that Dakota Services is in default for failing to file an Answer within 20 days after service of the Formal Complaint.

Dakota Service’s failure to file an Answer to the Formal Complaint constitutes grounds for default under North Dakota Century Code Chapter 28-32 and North Dakota Administrative Code Chapter 69-02-02.

This Order and Notice of Default constitutes written Notice of Default and a statement of the grounds for default.

The Commission issues the following:

Order and Notice on Default

The Commission Orders:

1. Dakota Services is in default under North Dakota Century Code Chapter 28-32 and North Dakota Administrative Code Chapter 69-02-02 for failing to file an Answer to the Formal Complaint within twenty days after service of the Formal Complaint.
2. Dakota Services is in violation of North Dakota Century Code Chapter section 49-23-04(1) by failing to contact the notification center and provide an excavation or location notice before beginning any excavation.
3. Dakota Services is assessed a civil penalty of \$500.

4. Dakota Services shall remit the \$500 civil penalty, payable to the North Dakota Public Service Commission, within ten business days of service of this Order and Notice on Default.

5. This Order and Notice on Default constitutes written Notice of Default and a statement of the grounds for default.

6. Under North Dakota Century Code Section 28-32-30(2), Dakota Services has seven days after service of this Order and Notice on Default to file a written motion requesting that the default order be vacated. Unless Dakota Services, within seven days after service of this Order and Notice on Default, files a written motion requesting that the default order be vacated, this Order and Notice on Default will be the final determination of this matter.

PUBLIC SERVICE COMMISSION



Julie Fedorchak
Commissioner



Brian Kroshus
Chairman



Randy Christmann
Commissioner