

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Enyweh Services, LLC
Damage Prevention Enforcement

Case No. PU-20-427

AFFIDAVIT OF SERVICE BY CERTIFIED 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 **24th day of June 2021**, she deposited in the United States Mail, at Bismarck, North Dakota, **two** envelopes with certified postage, return receipt requested, fully prepaid, securely sealed and containing photocopy of:

- **Order on Consent Agreement**

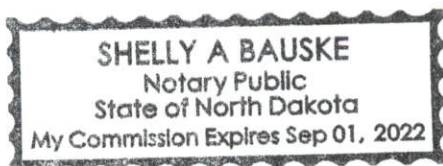
The envelopes were addressed as follows:

Alex Johnson – President
Enyweh Services, LLC
PO Box 11104
Williston, ND 58803
Cert. No. 7020 1810 0000 0894 2219

Laura Kraft
Montana-Dakota Utilities Co.
107 10th St SW
Watford City, ND 58854
Cert. No. 7020 1810 0000 0894 2226

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

Subscribed and sworn to before me
this **24th day of June 2021**.



SEAL

A handwritten signature in blue ink, appearing to read "Geralyn R. Schmaltz", written over a horizontal line.

A handwritten signature in blue ink, appearing to read "Shelly A. Bauske", written over a horizontal line.

Notary Public

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Enyweh Services, LLC
Damage Prevention Enforcement**

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ORDER ON CONSENT AGREEMENT

June 23, 2021

Preliminary Statement

On October 15, 2020, the Commission received a ND One-Call Complaint (Complaint) from Montana-Dakota Utilities Co. (MDU) alleging a violation by Enyweh Services, LLC (Enyweh) of North Dakota Century Code (NDCC) chapter 49-23: One-Call Excavation Notice System.

On October 19, 2020, the Commission sent a letter to Enyweh enclosing the October 15, 2020 Complaint, requesting a response by November 2, 2020.

On October 23, 2020, Enyweh filed a response to the Complaint.

On June 8, 2021, a Consent Agreement between Public Service Commission Advocacy Staff (Advocacy) and Enyweh was filed for the resolution of the Complaint.

Discussion

Enyweh Services, LLC is a domestic limited liability company with a principal address of 5722 22nd Ave West, Williston, ND 58803.

On August 25, 2020, Enyweh personnel provided an excavation notice to the North Dakota One Call Notification Center (NDOC), with new home excavation to begin on August 28, 2020, at 1912 Granite Road, Watford City, ND. The NDOC assigned locate ticket number 20118500 to the excavation notice. The expiration date for the ticket was September 18, 2020.

On September 29, 2020, Enyweh began an excavation that caused damage to an MDU 2-inch plastic natural gas main line. The estimated cost of the damage was \$1,000 and gas service to two customers was affected by the incident.

NDCC section 49-23-04(6)(g) provides that an excavator may not use a location more than twenty-one days, or any extension of that period, after the planned excavation date unless the excavator has made previous arrangements with the operators affected.

The excavation was not being made in a time of emergency under NDCC section 49-23-04(1), allowing the excavator to give notification after the start of the excavation.

Advocacy Staff concluded that Enywhewy violated NDCC section 49-23-04(6)(g) by failing to renew an excavation or location request prior to the expiration of the twenty-one-day period.

Enywhewy 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, Enywhewy agrees to be assessed a civil penalty of \$1,600, with \$800 suspended on condition that Enywhewy commit no further violation of the North Dakota One-Call Law (North Dakota Century Code chapter 49-23) within five years of the date of an Order accepting the Consent Agreement. Enywhewy will make \$800 payable to the North Dakota Public Service Commission within ten business days of service of an Order accepting the Consent Agreement.

Having considered this matter, the Commission finds the November 20, 2020 Consent Agreement is reasonable and acceptable. Therefore, the Commission issues the following:


Order

The Commission Orders:

1. The Consent Agreement, filed on June 8, 2021, between Enywhewy Services, LLC and Advocacy Staff is approved. A copy of the Consent Agreement is attached to and made a part of this Order on Consent Agreement (Order).
2. Enywhewy Services, LLC is assessed a civil penalty of \$1,600.
3. Enywhewy Services, LLC shall remit \$800 civil penalty, payable to the North Dakota Public Service Commission, within ten business days of service of this Order. The remaining \$800 civil penalty is suspended on condition that Enywhewy commit no further violation of North Dakota Century Code chapter 49-23 within five years of the date of this Order.
4. In the event the Commission finds Enywhewy violated North Dakota One-Call Law within five years of the date of this Order, Enywhewy shall remit the suspended portion of

the penalty, \$800, within the time ordered by the Commission and remit any additional fines or penalties imposed for subsequent violation.

PUBLIC SERVICE COMMISSION


Randy Christmann
Commissioner


Julie Fedorchak
Chair


Brian Kroshus
Commissioner

2020. The NDOC assigned locate ticket number 20118500 to the excavation notice, which indicates the work was new home excavation at 1912 Granite Road, Watford City, ND. The expiration date for the ticket was September 18, 2020.

On September 29, 2020, Enywhey began an excavation as defined in NDCC section 49-23-01(7) while performing new home excavation at the location cited in the excavation notice. As a result of this excavation, damage was caused to MDU's 2" plastic natural gas main line.

NDCC section 49-23-04(6)(g) provides that an excavator may not use a location more than twenty-one days, or any extension of that period, after the planned excavation date unless the excavator has made previous arrangements with the operators affected.

Having investigated the alleged violation, Staff believes that Enywhey violated NDCC section 49-23-04(6)(g).

Enywhey 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 Enywhey agree to the following, subject to the approval and acceptance of the Commission:

1. Enywhey violated NDCC section 49-23-04(6)(g) by failing to renew excavation or location request prior to the expiration of the twenty-one-day period.
2. Enywhey agrees to be assessed a civil penalty of \$1,600. Enywhey agrees to remit \$800 of the \$1,600, payable to the North Dakota Public Service Commission within ten business days of service of an Order accepting or approving the Consent

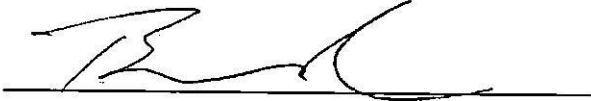
Agreement (Order). The remaining \$800 civil penalty is suspended on the condition that Enyweh commits no further violation of NDCC section 49-23 within five years of the date of the Order

3. In the event the Commission finds Enyweh violated the NDCC section 49-23 within five years of the date of the Order, Enyweh shall remit the suspended portion of the penalty, within the time ordered by the Commission, in addition to any additional fines or penalties imposed for the subsequent violation.
4. If within five years of the date of the Order there is no subsequent violation of the NDCC section 49-23 by Enyweh, the remaining \$800 penalty is withdrawn.
5. Staff agrees no other proceeding will be initiated and no other remedy or penalty will be sought based on the violation alleged in the Case.
6. Enyweh consents to the filing of the Consent Agreement and an Order 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, Enyweh understands and agrees to waive all rights to contest the violation, 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, including all rights to administrative or judicial hearings or appeals.
7. There are no covenants, promises, undertakings, or understandings other than specifically set forth in this Consent Agreement and Order.

8. 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.
9. The undersigned is authorized to act on behalf of Enywhey and bind Enywhey for purposes of this Consent Agreement and knows and fully understands the content and effect.

Dated this 8th day of June, 2021

PUBLIC SERVICE COMMISSION
ADVOCACY STAFF – DAMAGE PREVENTION

By: 

Brian Johnson
Special Assistant Attorney General Bar ID 07397
North Dakota Public Service Commission
600 East Boulevard Avenue Dépt. 408
Bismarck ND, 58505
701-328-2407

Dated this 8th day of June, 2021

Enywhey Services, LLC

By: 

Alex Johnson (President)