

PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA

MEMORANDUM

TO: Commissioners Fedorchak, Christmann, and Haugen-Hoffart
Steve Kahl, Executive Secretary

FROM: Konrad Crockford, Director, Compliance Division

DATE: February 15, 2023

RE: ND One-Call Complaint
Case No. DM-22-343

On August 8, 2022, a ND One-Call Complaint was received from WBI Energy Transmission (WBI) alleging that Custom Contracting Solutions, LLC (CCS) violated N.D.C.C. Chapter 49-23 One-Call Excavation Notice System for failing to conduct the excavation in a careful and prudent manner and for excavating prior to locate and marking of an underground facility.

From May 2022 through August 2022, CCS was installing a cable median barrier along Interstate 94 (I-94) through Jamestown, North Dakota. WBI's pipeline route crosses I-94 twice, once on the east side and once on the west side of Jamestown, North Dakota. CCS's cable median barrier needed to cross WBI's pipeline at both I-94 crossing locations. WBI alleged that CCS installed a cable barrier post sleeve at the west pipeline crossing prior to WBI completing the locate request under ND One-Call ticket no: 22088419 and closer than 24" from the outer edge of the pipeline (Allegation #1). Furthermore, WBI alleged that CCS failed to conduct the excavation in a careful and prudent manner at the east pipeline crossing by installing a cable barrier post sleeve closer than 24" to the outer edge of the pipeline located under ND One-Call ticket no: 22016636 (Allegation #2).

From August 2022 through December 2022, Staff investigated the complaints, engaging with both WBI and CCS on multiple occasions.

Regarding Allegation #1, Staff determined that:

- the scope of this portion of the cable median barrier project required CCS to have a total of four ND One-Call locate requests spanning from April 26, 2022 to August 28, 2022;
- the third locate for this area was called in on June 7, 2022 under ND One-Call ticket no: 22046604 and was subsequently relocated on August 3, 2022 under ND One-Call ticket no: 22088419 (the locate ticket referenced in WBI's complaint);
- in discussions with and documentation submitted by CCS, Staff concluded that CCS completed installing the barrier sleeves in this area in June 2022 under valid ND One-Call ticket no: 22046604; and
- based on submitted photographs, the outer edge of CCS's barrier sleeve was 26" away from the locate mark placed by WBI.

Regarding Allegation #2, Staff determined that:

- the scope of this portion of the cable median barrier project required CCS to have a total of two ND One-Call locate requests spanning from April 6, 2022 to August 9, 2022;

ND One-Call Complaint
Case No. DM-22-343 Memorandum
February 15, 2023
Page 2 of 2

- the first locate for this area was called in on April 21, 2022 under ND One-Call ticket no: 22016636 (the locate ticket referenced in WBI's complaint) and was subsequently relocated on July 14, 2022 under ND One-Call ticket no: 22073654;
- in discussions with and documentation submitted by both CCS and WBI, WBI failed to complete the second locate of their pipeline under ticket no. 22073654; and
- CCS installed the cable barrier sleeve after the expiration of the locate period under a valid ND One-Call ticket (no. 22073654).

Based on the investigation, there is not sufficient evidence to support a violation; therefore, Staff does not intend to file a formal complaint. Additionally, Staff recommends that no further action be taken, and the case be closed.