



# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

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November 12, 2024

Mr. Steve Kahl  
Executive Secretary  
North Dakota Public Service Commission  
600 E Boulevard Ave Dept 408  
Bismarck ND 58505-0480

*via Hand Delivery*

Re: Case No. DM-24-233  
Public Service Commission  
Arrow Roustabout Service, Inc.  
Damage Prevention Enforcement

Dear Mr. Kahl:

Enclosed is a copy of the Consent Agreement to be filed in the above captioned case.

Best regards,

A handwritten signature in blue ink, appearing to read "Brian Johnson".

Brian Johnson  
Legal Counsel

Enclosure

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

Public Service Commission  
Arrow Roustabout Service, Inc.  
Damage Prevention Enforcement

Case No. DM-24-233

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PUBLIC SERVICE COMMISSION,	)	
	)	
Complainant,	)	
	)	
vs.	)	CONSENT AGREEMENT
	)	
Arrow Roustabout Service, Inc.	)	
	)	
Respondent.	)	

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This Consent Agreement is entered into by and between Arrow Roustabout Service, Inc. (Arrow) and the Public Service Commission (Commission) Advocacy Staff (Staff) (together, the Parties) for resolution of Case No. DM-24-233.

**Preliminary Statement**

On June 13, 2024, the Commission received a North Dakota One-Call Complaint (Complaint) from North Dakota Pipeline Company LLC (Enbridge). The Complaint alleges Arrow violated North Dakota Century Code (N.D.C.C.) § 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 an excavation.

On September 12, 2024, Staff sent a letter to Arrow enclosing the Complaint.

On October 3, 2024, Staff received a response from Arrow acknowledging that Arrow did not place a one-call excavation notice prior to beginning the excavation.

## **Discussion**

On March 6, 2024, an Enbridge employee was responding to an unrelated one-call excavation notice when they witnessed Arrow conducting an excavation as defined in N.D.C.C. § 49-23-01(7) for the purpose of repairing a line break that occurred at a Cobra Oil & Gas Corporation (Cobra) tank battery located at latitude 48.53556823, longitude -101.18314232. Cobra called in Arrow to assist with the excavation when Cobra was not able to excavate through the ground frost (Reference Case No. DM-24-234). There is no evidence of Arrow contacting the North Dakota One-Call Notification Center (NDOC) prior to beginning this excavation.

### **Alleged Violation:**

#### **Excavator Failed to Provide Locate Notice Prior to Beginning Excavation**

N.D.C.C. § 49-23-04(1) states "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."

Having investigated the alleged violation, Staff believes Arrow violated N.D.C.C. § 49-23-04(1) by failing to provide an excavation or location notice before beginning any excavation.

### **Agreement**

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

1. Arrow violated N.D.C.C. § 49-23-04(1) by failing to provide an excavation or location notice before beginning an excavation.
2. Arrow agrees to be assessed a civil penalty of \$500.
3. Arrow agrees to remit \$300 of the \$500, payable to the North Dakota Public Service Commission within ten (10) business days of service of an Order accepting or approving the Consent Agreement. The remaining \$200 civil penalty is suspended on the condition that Arrow commits no further violations of N.D.C.C. Chapter 49-23 within five (5) years of the date of the Order.
4. Staff agrees no other proceeding will be initiated and no other remedy or penalty will be sought based on the violations alleged in this case.
5. Arrow consents to the filing of the Consent Agreement and an Order and hereby waives any further procedural requirements with respect to the issuance of the Order. Provided the Commission adopts this Consent Agreement and issues an Order consistent with it, Arrow 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.
6. For purposes of the identification requirement of Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), the performance is restitution, remediation, or an amount paid to come into compliance with the law, Arrow agrees to provide the

Commission with a U.S. Department of the Treasury Internal Revenue Service Form W-9 for this purpose within ten (10) business days of service of an Order accepting or approving the Consent Agreement.

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 of 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 Arrow and bind Arrow for the purposes of this Consent Agreement and knows and fully understands the content and effect.

Dated this 12<sup>th</sup> day of November, 2024

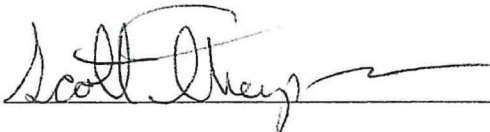
PUBLIC SERVICE COMMISSION  
ADVOCACY STAFF – DAMAGE PREVENTION

By: 

Brian Johnson  
Special Assistant Attorney General (Bar ID 07937)  
Public Service Commission  
600 E. Boulevard Ave., Dept. 408  
Bismarck, ND 58505-0480  
701-328-2407

Dated this 9<sup>th</sup> day of November, 2024

Arrow Roustabout Service, Inc.

By: 

Scott Thompson, President  
Arrow Roustabout Service, Inc.  
P.O. Box 314  
Westhope, ND 58793-0314