



Public Service Commission

State of North Dakota

COMMISSIONERS

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3 February 2012

Edwards Gravel and Trucking
6752 51st Street NW
Plaza, ND 58771-9453

Re: Third Party Damage Complaint
Case No. PU-12-54

Dear Mr. Edwards:

Enclosed is a copy of a Third Party Damage Complaint against Edwards Gravel and Trucking (Edwards) received by the ND Public Service Commission on January 31, 2012 from Reservation Telephone Cooperative.

Please respond to the Commission by **February 24, 2012**, with your written account of the event. Your response, the complaint, and other available information will be reviewed to determine whether Commission staff will file a formal complaint.

Your response should also address the following criteria used to determine the amount of civil penalty, if any, to be recommended by Commission staff as part of a formal complaint:

- a) The nature, circumstances, and severity of the complaint;
- b) The degree of suspected fault on the part of Edwards;
- c) Edwards' history of prior violations or complaints;
- d) Edwards' ability to pay;
- e) Any good faith effort by Edwards in attempting to achieve compliance; and
- f) The effect the penalty may have on Edwards' ability to continue in business.

If you have any questions please call or e-mail me at 701-328-4052 or camarohl@nd.gov.

Best regards,

Christopher Marohl
Public Utility Analyst

Enclosures

C: Alicia Brenna, Reservation Telephone Cooperative

2 **PU-12-54** Filed: 2/3/2012 Pages: 4
Letter to respondent enclosing third party damage complaint



THIRD PARTY DAMAGE COMPLAINT

Public Service Commission
SFN 59067 (12-11)

PART A – WHO IS SUBMITTING THIS COMPLAINT

| | | | | |
|--|---|---|----------------------|--|
| Information Being Submitted By <input type="checkbox"/> Individual <input checked="" type="checkbox"/> Company* | Company/Organization Reservation Telephone Cooperative | Person Filing Information Alicia M. Brenna | Position attorney | |
| Address of Person Filing Information 4031 110th Ave NW | City Keene | State ND | Zip Code 58847 | |
| Telephone Number 701-675-2188 | Email Address brennalaw@gmail.com | | Date 1/24/2012 | |

PART B – WHO ALLEGEDLY VIOLATED THE ONE-CALL REGULATIONS

| | | | |
|--|---------------|----------------------------------|-------------------|
| Name of Excavator Edwards Gravel and Trucking | | Telephone Number 701-220-7056 | |
| Address 6752 51st Street NW | City Plaza | State ND | Zip Code 58771 |
| Name of Entity for Which Excavation Was Performed Edwards Gravel and Trucking | | Telephone Number 701-220-7056 | |
| Address 6752 51st Street NW | City Plaza | State ND | Zip Code 58771 |

PART C – DATE AND LOCATION OF THE EVENT

| | | | |
|---------------------------|--|-------------|-------------------|
| Date of Event 3/9/2011 | Address of the Excavation and/or Damage 1st Street SE #12 and #14 | | |
| County Mountrail | City Parshall | State ND | Zip Code 58770 |

PART D – FACILITY INVOLVED

| | | | |
|---|--|-------------|-------------------|
| Type of Facility Involved cutting of fiber optic cable | Operator of Facility and Contact Person (if known) Reservation Telephone Coop/ Shane Hart | | |
| Address 24 Main Street North | City Parshall | State ND | Zip Code 58770 |
| Telephone Number 701-562-5200 | Email Address (if known) shaneh@restel.com | | |
| Brief Description of Facility Involved fiber optic cable | | | |

PART E – DAMAGE (if applicable)

| | | |
|---|---------------|--|
| Fatalities 0 | Injuries 0 | Length of Hospitalization, if Applicable 0 |
| Estimated Value of Property Damage: \$ \$5109.15 plus current attorneys fees (\$483.00 currently) | | Number of Customers Affected 9 |
| Damaged Within <input checked="" type="checkbox"/> Public Property <input type="checkbox"/> Private Property | | Photos of Damaged Facility <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If yes, please include copies) |

PART F – EXCAVATION

Was a locate requested from North Dakota One-Call?

Yes Locate Ticket Number _____ Start Date on Ticket: _____
 No
 Unknown

Did excavator wait until the start date/time on the ticket before commencing excavation?

Yes No Unknown N/A

Were buried facilities exposed by hand or non-invasive equipment prior to excavation?

Yes No Unknown N/A

PART G – MARKING

| | |
|---|---|
| Were facilities marked? | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> N/A |
| Were utility/facility marks visible in the area of excavation? | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> N/A |
| Were the utility/facilities marked correctly? | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> N/A |
| Was the marking complete prior to the start time on the ticket? | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> N/A |
| Did the excavator pre-mark with white paint? | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> N/A |
| Was the facility marked accurately within 24 inches horizontally? | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> N/A |
| Did the excavator use reasonable care to maintain locate marks for the life of project? | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> N/A |

PART H – DESCRIPTION OF EVENT

Description of Event

Excavator began digging without calling One Call. During the excavation, a fiber optic cable was cut. A backhoe and operator were required to be hired to pull the damaged fiber cable. Equipment: splice case, splice tray, ribbon and single splices, splice trailer, case prep and labor.

Reservation Telephone Cooperative has repeatedly sent invoices and made phone calls to the owner of Edwards Gravel and have received no response. In December 2011, the coop had their attorney send a letter identifying their negligence on this matter.

Description of Event Continued

[Empty box for Description of Event Continued]

PART I – SIGNATURE

| | |
|--|-------------------|
| Signature of Person Filing Complaint /s/ Alicia M. Brenna | Date 1/24/2012 |
|--|-------------------|

Please include additional documents and photos, if applicable.

***If you are filing on behalf of a company, please provide information supporting your authority to file this complaint.**

Send Completed, Original Complaint To:
Public Service Commission
600 E Boulevard Ave Dept 408
Bismarck ND 58505-0480
Telephone: (701) 328-2400

Email to the Commission