

# Memorandum

To: Commissioners Kalk, Christmann and Fedorchak

From: Victor Schock, Public Utility Analyst

Date: September 30, 2014

Re: ND One-Call Complaint  
Case No. PU-14-695

On August 21, 2014, a ND One-Call Complaint was received from Otter Tail Power alleging that Harvey Sand & Gravel, INC. violated North Dakota Century Code Chapter 49-23 One-Call Excavation Notice System law by completing a concrete driveway replacement project without a valid ND One-Call ticket.

Staff investigation found that there was not a valid ND One-Call ticket. Staff learned that Otter Tail Power believed that a One-Call ticket was in order, because they believe the stakes used for the concrete forms would violate the 12" landscaping rule (Gardening and landscaping is not considered an excavation unless it disturbs the soil to a depth of twelve inches or more). Staff agrees that a stake being driven 12" or more into the soil would be defined as an excavation requiring a ND One-Call ticket. However, staff was not presented with sufficient evidence in this complaint to show the length of the stakes used for the project.

Staff recommends that no further action be taken and the case be closed. I will add this to the October 8, 2014 meeting for commission action.