

# Memorandum

To: Commissioners Kalk, Christmann and Fedorchak

From: Victor Schock Public Utility Analyst

Date: June 11, 2015

Re: ND One-Call Complaint  
Case No. PU-15-199

On May 15, 2015, a ND One-Call Complaint was received from Erin Briggs-Hayes with Midcontinent Communications alleging that ELM Locating and Utility Services (ELM) violated North Dakota Century Code Chapter 49-23 One-Call Excavation Notice System law by failing to locate and mark underground facilities within 48 hours and failing to mark underground facility within 24 inches horizontally.

Staff investigation found that ELM is neither an excavator nor an underground facility operator, and therefore cannot be found in violation of the One-Call Law. ELM is a locating contractor employed by various facility operators. Midcontinent was advised to resubmit the complaint against the owner of the underground facilities that were not located.

Based on its investigation staff does not intend to file a formal complaint, and recommends that no further action be taken and the case be closed.