

# Memorandum

To: Commissioners Kalk, Christmann and Fedorchak

From:  Victor Schock Public Utility Analyst

Date: March 29, 2016

Re: ND One-Call Complaint  
Case No. PU-15-338

On June 9, 2015, a ND One-Call Complaint was received from Dave Voeller with Otter Tail Power Company (OTP) alleging that Terpening Construction Inc. (Terpening) violated North Dakota Century Code Chapter 49-23 One-Call Excavation Notice System law by failing to provide an excavation notice at least 48 hours before beginning an excavation. The location and date information provided by OTP was 1353 Elm Ave, Harvey, ND 58341 between May 26 and 29, 2015.

Staff investigation found that on June 5, 2015 a ND One-Call Complaint was received from Bob Schell with Midcontinent Communications Investor, LLC. (Midco) alleging that Terpening violated North Dakota Century Code Chapter 49-23 One-Call Excavation Notice System law by failing to provide an excavation notice at least 48 hours before beginning an excavation. The location and date information provided by Midco was 1353 Elm Ave, Harvey, ND on May 27, 2015. This complaint was assigned Case No. PU-15-238.

Staff investigation found that that the two complaints are referencing the same single incident on May 27, 2015. Since there was only one incident, staff feels that pursuing more than one violation would not be necessary or appropriate. Staff will continue to work the incident via Case No. PU-15-238. That case will be used because it contains more factual details of the incident.

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.