



# Public Service Commission

## State of North Dakota

### COMMISSIONERS

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Randy Christmann  
Brian P. Kalk

Executive Secretary  
Darrell Nitschke

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October 7, 2015

David Schmitt  
JDM Schmitt Concrete  
6449 13<sup>th</sup> Ave NE  
Towner, ND 58788-9108

Re: One-Call Excavation Notice System: North Dakota Century Code Chapter 49-23

Dear Mr. Schmitt:

Enclosed is a copy of a ND One-Call Complaint, with attachments, against JDM Schmitt Concrete, received by the North Dakota Public Service Commission on September 1, 2015, from Dave Voeller at Otter Tail Power Co, of Harvey, ND, Case Number PU-15-681. The location of the incident identified in the complaint is approximately 113 5<sup>th</sup> Ave W, Drake, ND.

I am sending you this information so that you are aware of the Complaint and have an opportunity to present any information you may have to assist us in processing this case. **Please respond to Darrell Nitschke, Executive Secretary, North Dakota Public Service Commission, by October 22, 2015**, with your written account of the event, including the applicable One Call locate ticket number for work performed at the address indicated.

I will review your response, the ND One-Call Complaint, and other available information to determine the next step in this matter. If I conclude there was a violation of the One Call law, I may file a formal complaint with the Commission. If I decide to proceed with a formal complaint, I will attempt to contact you in advance.

Please contact me at 701-328-3397 or at [vschock@nd.gov](mailto:vschock@nd.gov) with any questions regarding this correspondence.

Sincerely,

Victor Schock  
Compliance and Competitive Markets Division

Enc: ND One-Call Complaint with attachments  
c: Dave Voeller with attachments



# ND ONE-CALL COMPLAINT

Public Service Commission

SFN 59067 (1-14)

To allege a violation of the One-Call Excavation Notice System Law: North Dakota Century Code Chapter 49-23

## PART A - WHO IS SUBMITTING THIS COMPLAINT (COMPLAINANT)

Company/Person <i>Dave Voeller Power</i>	Street Address <i>Otter Tail</i>	City <i>Harvey</i>	State and Zip Code <i>ND 58341</i>
Telephone and Cell Phone Number <i>701-693-5231</i>	Email Address <i>dvoeller@otpc.com</i>		Date <i>9-1-15</i>
<input type="checkbox"/> Complainant is willing and able to testify on the complaint if matter goes to formal hearing			

## PART B - WHO VIOLATED THE ONE-CALL REGULATIONS (RESPONDENT)

Company/Person <i>David Schmitt</i>	Street Address <i>6449 13<sup>th</sup> Ave NE</i>	City <i>Towner</i>	State and Zip Code <i>ND 58788</i>
Telephone and Cell Phone Number <i>537-5778</i>		Email Address	

## PART C - ALLEGED VIOLATION

<input type="checkbox"/> Operator failed to provide or update the information provided to the notification center on a timely basis <input checked="" type="checkbox"/> Excavator failed to provide excavation or location notice at least 48 hours before beginning any excavation <input type="checkbox"/> Excavator failed to provide required information in excavation or location notice <input type="checkbox"/> Notification center failed to transmit the notice to every operator that has an underground facility in the area of the excavation <input type="checkbox"/> Notification center failed to inform the excavator of the names of operators of underground facilities in the area <input type="checkbox"/> Operator failed to locate and mark underground facility within 48 hours <input type="checkbox"/> Excavation started prior to underground facility locate <input type="checkbox"/> Operator failed to mark underground facility within 24 inches horizontally <input type="checkbox"/> Excavator failed to renew excavation or location request prior to the expiration of the twenty-one-day period <input type="checkbox"/> Excavator failed to conduct the excavation in a careful and prudent manner to avoid damage of underground facilities <input type="checkbox"/> Excavator failed to maintain the markings during excavation <input type="checkbox"/> Other (Identify the specific section of NDCC Chapter 49-23) _____
Location of Violation: <i>113 5<sup>th</sup> Ave W Drake ND. 58736</i>
Date and Time of Violation: <i>8-26-2015</i>
Description (summarize the observations on which you rely to allege the violation) <i>If more space is required, please provide the description on a separate page.</i> <i>See page 2</i>

## PART D - DAMAGE

Fatalities	Injuries	In-patient Hospitalization
Underground facility type(s) and Operator(s) affected: <i>Electric service line (Otter Tail Po) phone line (NDTC)</i>		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$		Number of Customers Affected
Other impact of event:		
Please attach photos of Event Area or Damaged Facility		

## PART I - SIGNATURE

Signature of Person Filing Complaint <i>Dave Voeller</i>	Date <i>9-4-15</i>
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Send Completed, Original Complaint To:  
 Public Service Commission  
 600 E Boulevard Ave Dept 408  
 Bismarck ND 58505-0480  
 Telephone: (701) 328-2400

1 PU-15-681 Filed: 9/1/2015 Pages: 4  
 North Dakota One Call Complaint

Otter Tail Power Company

Dave Voeller

**To Whom it May Concern,**

**Contractor formed and poured slab for garage at new home site using stakes that exceeded 12 inches. The picture included shows the length of this stake that was 3 feet from our newly installed service wire along with telephone service cable. I excavated next to stake and measured 20 inches with a tape measure and had not yet reached bottom of stake. It was likely a 24" stake. I approached the owner of the contracted business that was still on site and indicated that a locate was needed for his work on this job and the cement work that was done several weeks earlier for the double wide home. Contractor was defiant and offered no explanation as to why he did not call for a locate for his work. He cut the conversation short, walked over to his pickup and drove away. It was clear to me he had no intention of changing the manner of how projects are done which quite often would not include a locate for his business and portion of the project.**

**Sincerely,**

**Dave Voeller**

**Otter Tail Power**



