

## **-Info-Public Service Commission**

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**From:** Schock, Victor F.  
**Sent:** Tuesday, March 08, 2016 3:14 PM  
**To:** -Info-Public Service Commission  
**Subject:** FW: Case Number PU-16-41

Hi John,

Please file as a response in the above captioned case.

Thanks,  
Victor Schock

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**From:** Marty Goulet [<mailto:m.goulet@wagnerconstructioninc.com>]  
**Sent:** Tuesday, March 08, 2016 11:29 AM  
**To:** Schock, Victor F.  
**Subject:** Case Number PU-16-41

Victor,

As discussed on the phone, this email will serve as Wagner Construction's response to the complaint filed by Verendrye Eclectic Co-op. Please forward this to Darrell Nitschke.

Wagner Construction **rejects** the alleged violation that the *Excavator failed to conduct the excavation in a careful and prudent manner to avoid damage of underground facilities.*

Wagner followed all one call laws, including:

- ✓ *Provided excavation notice at least 48 hours prior.* Ticket #15218797 was requested on 12/03/2015.
- ✓ *Conducted the excavation in a careful and prudent manner.*
  - The incident occurred in a location with very little room. 4 utility lines to work around.
  - Limited room to put in required benching and trench box.
  - Our laborer hand exposed 10 feet of the old single phase non-coted line by hand.
  - Benching required excavator arm to be fully extended.
  - Fully extended excavator arm took a scoop and arm dropped and nicked the line (mechanical failure).

This is not a case of negligence of not acting in a prudent manner. This is a situation where the room for error was very small. We took every prudent action, but the mechanical failure happened at the wrong time.

Let me know if you need any information or additional supporting documents.

Marty

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**3** **PU-16-41** Filed: 3/8/2016 Pages: 1  
**Response to North Dakota One Call Complaint**

Wagner Construction, Inc.

Marty Goulet