

Memorandum

To: Darrell Nitschke, Executive Secretary

From: Victor Schock Public Utility Analyst

Date: July 6, 2016

Re: ND One-Call Complaint
Case No. PU-16-41

On January 22, 2016, a ND One-Call Complaint was received from Bruce Carlson with Verendrye Electric Cooperative, Inc. (Verendrye) alleging that Wagner Construction, Inc. (Wagner) violated North Dakota Century Code Chapter 49-23 One-Call Excavation Notice System law by failing to conduct their excavation in a careful and prudent manner.

Staff investigation found that on December 7, 2015 Wagner was conducting an excavation for a sewer main line when it struck Verendrye's underground single phase primary cable with a track hoe bucket. Neither Wagner nor Verendrye disputes this.

Staff investigation found that the strike occurred due to mechanical failure of the track hoe rather than Wagner failing to excavate in a careful and prudent manner. The track hoe bucket was fully extended and when loaded with dirt it dropped down more than was normally expected by the equipment operator striking the already hand dug/hydro-vac exposed cable. Wagner has provided a Service Request Form that was created 3 days after the incident detailing the mechanical issue and its subsequent repair. Due to this, staff does not believe this was a violation of the One-Call law. However Wagner is liable for the damage caused to Verendrye's cable. Wagner has reimbursed Verendrye for the damages.

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.