

# Memorandum

To: Commissioners Kalk, Christmann and Fedorchak

From: Victor Schock Public Utility Analyst

Date: September 23, 2016

Re: ND One-Call Complaint  
Case No. PU-16-248

On June 4, 2016, a ND One-Call Complaint was received from Keith Ernst with Ernst Trenching, Inc. (Ernst) alleging that ONEOK Rockies Midstream, L.L.C. (ONEOK) violated North Dakota Century Code Chapter 49-23 One-Call Excavation Notice System law by failing to mark their underground facilities within 24 inches horizontally.

On June 17, 2016 ONEOK filed a response to the notification of Ernst's complaint. The response asserted that they did not have any underground facilities within approximately 1 mile of the excavation area identified in the One-Call ticket noted in the complaint.

Staff had several additional phone and email conversations with both Ernst and ONEOK, at the end of which staff was not able to clarify exactly where the unmarked facility was located. At that point ONEOK offered to meet with Ernst onsite. Ernst was unwilling to meet about the issue as they are no longer working in that area.

Staff notified Ernst on August 1, 2016 that without clarification of the location and confirmation that ONEOK has an underground facility that was not marked, that staff would not have enough evidence to prove a violation. As of September 23, 2016 Ernst has neither responded to staff nor replied to ONEOK's request to schedule a meeting.

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.