

April 17, 2019

Via E-mail and Hand Delivery

ndpsc@nd.gov

Victor Schock
North Dakota Public Service Commission
600 East Boulevard Ave., Dept. 408
Bismarck, ND 58504-0480

**In re: PU-18-372 – Damage Prevention Enforcement
Reply of Midcontinent Communications**

Mr. Schock,

Prairie View Excavating, L.L.C. (“Prairie View”) filed a response to the Answer of Midcontinent Communications (“Midco”) regarding the One-Call Complaint in the above-referenced matter. (Docket No. 7). Midco hereby provides the following information in reply to Prairie View’s response.

Prairie View’s claim that Midco did not mark its line lacks for sufficiency. Midco has provided information to the Commission that demonstrates Midco’s line was clearly marked at the dig site. A copy of the One-Call ticket for the dig site at issue has been provided to the Commission. *See* Exhibit 1 to Docket No. 3. The One-Call ticket indicates that Midco was notified of the One-Call request, and that Midco completed markings at the site. Further, Midco provided the Commission with photographs date stamped July 2, 2018 of its markings at the dig site. *See* Exhibit 2 to Docket No. 3. The One-Call ticket states that construction was scheduled to commence July 3, 2018. Midco’s photographs demonstrate that Midco’s line was marked prior to Prairie View’s excavation at the site. The photographs in Exhibit 2 to Docket No. 3 demonstrate that five facilities were marked, the same amount of facilities the One-Call ticket identifies as being marked at the site.

Midco previously filed a photograph that contained arrows linking the exposed facilities to their corresponding One-Call markings. *See* Exhibit 4 to Docket No. 3. Prairie View claims

that Midco's line is actually to the right of where Midco identified its line location in Exhibit 4. Midco agrees that its line location is incorrectly referenced in Exhibit 4, and apologizes for the discrepancy. Midco's line is the furthest right orange marking in Exhibit 4, and the arrow in the picture should have been drawn to this location. A green arrow has been included in the attached Revised Exhibit 4 to depict the correct location of Midco's line.

Prairie View continues to rely on pictures of exposed facilities and measurements taken between these facilities to support its claim that Midco's line was not marked; however, this is not an appropriate way to assess compliance with One-Call requirements. *See* Prairie View's Exhibit 5 to Docket No. 7. Compliance with the two feet marking requirement is measured from the outer edges of a facility *marking* to the facility itself. Prairie View does not identify the location of any of the facility markings with respect to the exposed facilities in the pictures it has provided. Midco reiterates that Prairie View's method of measurement does not demonstrate that Midco failed to properly mark its line. As previously indicated by Midco, pictures of the open trench appear to indicate that Prairie View did not manually excavate along the outer edges of the exposed yellow natural gas line pursuant to One-Call regulations. *See e.g.*, Exhibit 3 Docket No. 3, and attached hereto. This demonstrates Prairie View's serious disregard of the One-Call regulations.

The pictures in Exhibit 2 to Docket No. 3 identify five markings and show that Midco clearly marked its line. This marking is located to the right of the yellow gas line marking. Prairie View fails to acknowledge that the other four One-Call markings may not have been precisely aligned with the actual location of their corresponding underground facilities. The discrepancy between the location of the other utilities' markings and the actual location of these lines becomes quite clear when you compare the numerous pictures of the markings in Exhibit 2 in Docket No. 3 and the open utility trench side by side. *See* example attached hereto.

Prairie View has failed to sufficiently establish or demonstrate that Midco violated any of the provisions of N.D.C.C. ch. 49-23. For the reasons outlined in Midco's prior answer and contained herein, Prairie View's Complaint lacks for sufficiency and Midco respectfully requests the Commission dismiss the Complaint in its entirety.

Sincerely,

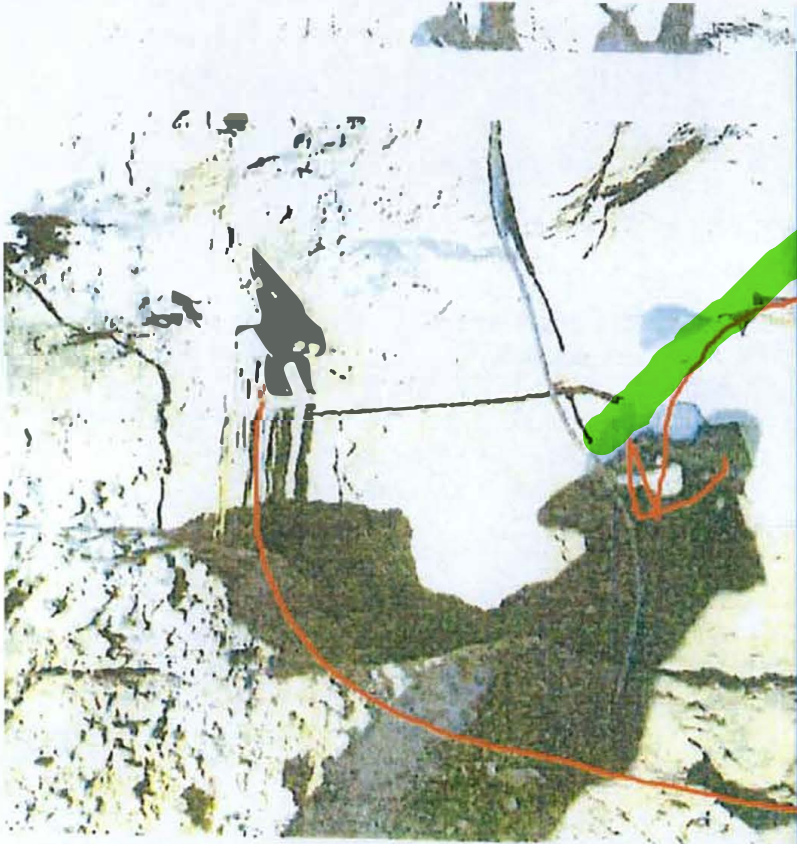
CROWLEY FLECK PLLP



CASEY A. FUREY

Encl.

cc: Allison Carlson (via certified mail)



REVISED EXHIBIT 4



Ticket: 18072364.0 Timestamp: 7/2/2018 5:57:57 AM

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on April 17, 2019, the following documents:

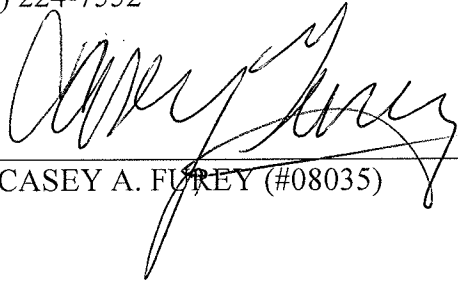
1) Reply of Midcontinent Communications

were served via certified mail and directed to the person to be served at their last known post office address as follows:

Attn: Allison Carlson
Prairie View Excavating
1103 136th Ave NE
Baldwin, ND 58521

CROWLEY FLECK PLLP
Attorneys for Midcontinent Communications
100 West Broadway, Suite 250
P.O. Box 2798
Bismarck, North Dakota 58502
(701) 224-7552

By


CASEY A. FUREY (#08035)