

# Memorandum

To: Commissioners Christmann, Fedorchak and Kroshus

From: Victor Schock Public Utility Analyst (VS)

Date: September 23, 2019

Re: ND One-Call Complaint  
Case No. PU-18-372

On October 26, 2018, a ND One-Call Complaint was received from Allison Carlson with Prairie View Excavating (Prairie View) alleging that Midcontinent Communications (Midco) violated North Dakota Century Code Chapter 49-23 One-Call Excavation Notice System law by failing to locate and mark its underground facility within the locate period.

Staff investigation found that on June 28, 2018 Prairie View personnel placed an excavation notice for installing water and sewer lines with a work to begin date of July 3, 2018. On July 12, 2018 Prairie View personnel struck a communication line owned by Midco. Prairie View alledged that while other Midco lines in the area were properly marked, this line was not. Staff informed Midco of Prairie View's complaint via a letter dated October 31, 2018. Midco's November 21, 2018 response asserted that their lines were marked accurately and completely.

Staff continued its investigation requesting additional pictures and details from both Midco and Prairie View and conducted several phone calls to better understand the situation. None of the pictures or descriptions received by staff were able to definitively demonstrate whether or not the marks were present. The location was a new housing development with many locate marks in various places and many excavations taking place around the same time.

On September 20, 2019 staff received a letter from Prairie View stating they would like to withdraw their complaint and would not be aiding in any further enforcement action on this case. This leaves staff with no options for a witness or additional evidence to definitively prove the case.

Based on its investigation staff does not intend to file a formal complaint, recommends that no further action be taken and the case be closed.