

Memorandum

To: Commissioners Christmann, Fedorchak and Kroshus

From: Victor Schock Public Utility Analyst

(VS)

Date: April 22, 2019

Re: ND One-Call Complaint
Case No. PU-18-410

On December 4, 2018, a ND One-Call Complaint was received from Lisa Kallberg with Xcel Energy (Xcel) alleging that Fox Underground, Inc. (Fox) violated North Dakota Century Code Chapter 49-23 One-Call Excavation Notice System law by failing to conduct its excavation in a careful and prudent manner.

Staff investigation found that on September 19, 2018 Fox struck a 5/8" natural gas service line owned by Xcel. Fox asserted in its January 19, 2019 response that the gas line was struck with a hand shovel rather than mechanical excavation equipment. Xcel conceded in its April 19, 2019 response that the damage could have been caused by a hand shovel and was unable to provide further evidence to the contrary. Per NDCC 4-23-01(3) manual excavation is required within 24" of a marked underground facility.

Based on the investigation, staff believes that the damage occurred from a hand-operated shovel and would fall within the manual excavation definition.

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.