

Memorandum

To: Commissioners Christmann, Fedorchak and Kroshus

From: Victor Schock Public Utility Analyst 19

Date: October 9, 2019

Re: ND One-Call Complaint
Case No. PU-18-424

On December 4, 2018, a ND One-Call Complaint was received from Lisa Kallberg with Xcel Energy (Xcel) alleging that Master Construction, Inc. (Master) 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 August 8, 2018 Master personnel began an excavation to replace a road at 1002 10th St N in Fargo, ND. The excavation was conducted under North Dakota One Call ticket number 18092591, which was valid for the time and location of the incident. During this excavation two 5/8" natural gas service lines owned by Xcel were damaged. Master's January 11, 2019 response to the complaint asserts that Xcel personnel were onsite at the time of the incident and had given the go ahead to continue with the excavation knowing that striking the lines was possible if not likely.

Staff believes this interaction would constitute an agreement between Xcel and Master that would have relieved Master of its obligation to excavate in a careful and prudent manner near the marked facilities.

Staff has asked Xcel to either confirm or deny the allegations of Master and to provide additional evidence. Despite multiple requests for follow up, Xcel has not provided any additional details or evidence.

Staff does not have sufficient evidence to prove a violation on the part of Master in this 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.