



# Public Service Commission

## State of North Dakota

### COMMISSIONERS

Brian Kroshus  
Julie Fedorchak  
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600 East Boulevard, Dept. 408  
Bismarck, North Dakota 58505-0480  
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Fax: 701-328-2410  
TDD: 800-366-6888 or 711

October 2, 2019

Wagner Construction, Inc.  
Paul Geving  
120 W Sweet Ave  
Bismarck, ND 58504-5566

Re: ND One-Call Excavation Notice System: North Dakota Century Code Chapter 49-23

Dear Paul:

Enclosed is a copy of a ND One-Call Complaint, against Wagner Construction, Inc., received by the North Dakota Public Service Commission on August 14, 2019, from Paul Riely at Montana Dakota Utilities, of Williston, ND, Case Number PU-19-330. The location of the damage identified in the complaint is approximately 105 10<sup>th</sup> St SW, Watford City, ND.

I am sending you this information so that you are aware of the complaint and may respond with information concerning the complaint. **Please respond to Executive Secretary, North Dakota Public Service Commission, 600 East Boulevard Avenue, Dept 408, Bismarck, ND 58505-0480 by October 16, 2019**, with your written account of the event, including the applicable One Call locate ticket number for work performed at the address indicated.

Your response and the ND One-Call Complaint will be reviewed to determine whether there may be a violation of the One-Call Excavation Notice System law.

If I do not receive a response by the date noted, I will determine whether there was a violation, without your side of the story, based on the facts contained in this complaint. If I conclude a violation did occur I will file a formal complaint against Wagner Construction, Inc. with the Commission, which may result in a penalty up to \$25,000 per violation as approved by the North Dakota Legislative Assembly in 2013 under North Dakota Century Code Section 49-07-01.1.

Please contact me at 701-328-3397 or at [vschock@nd.gov](mailto:vschock@nd.gov) with any questions regarding this correspondence.

Sincerely,

Victor Schock  
Public Utilities Division  
North Dakota Public Service Commission  
600 E Boulevard Ave, Dept 408  
Bismarck, ND 58505-0480

Enc: ND One-Call Complaint  
c: Paul Riely

2 PU-19-330 Filed: 10/2/2019 Pages: 2  
Letter enclosing North Dakota One-Call Complaint

Public Service Commission  
Victor Schock



# ND ONE-CALL COMPLAINT

Public Service Commission

SFN 59067 (5-17)

To allege a violation of the One-Call Excavation Notice System Law: North Dakota Century Code Chapter 49-23

## PART A – WHO IS SUBMITTING THIS COMPLAINT (COMPLAINANT)

|  |                                     |                   |                                |
|--|-------------------------------------|-------------------|--------------------------------|
| Company/Person<br>Montana-Dakota Utilities Co.   | Street Address<br>121 W 8th Ave     | City<br>Williston | State and Zip Code<br>ND 58801 |
| Telephone and Cell Phone Number<br>701-572-1614/701-516-4357   | Email Address<br>paul.riely@mdu.com |                   | Date<br>14 August 2019         |
| <input checked="" type="checkbox"/> Complainant is willing and able to testify on the complaint if matter goes to formal hearing |                                     |                   |                                |

## PART B – WHO VIOLATED THE ONE-CALL REGULATIONS (RESPONDENT)

|  |                                   |                             |                                |
|--|-----------------------------------|-----------------------------|--------------------------------|
| Company/Person<br>Wagner Construction Inc.               | Street Address<br>3151 Highway 53 | City<br>International Falls | State and Zip Code<br>MN 56649 |
| Telephone and Cell Phone Number<br>218-283-3700 (office) |                                   | Email Address               |                                |

## PART C – ALLEGED VIOLATION

|   |
|---|
| <input type="checkbox"/> Operator failed to provide or update the information provided to the notification center on a timely basis<br><input type="checkbox"/> Excavator failed to provide excavation or location notice at least 48 hours before beginning any excavation<br><input type="checkbox"/> Excavator failed to provide required information in excavation or location notice<br><input type="checkbox"/> Notification center failed to transmit the notice to every operator that has an underground facility in the area of the excavation<br><input type="checkbox"/> Notification center failed to inform the excavator of the names of operators of underground facilities in the area<br><input type="checkbox"/> Operator failed to locate and mark underground facility within 48 hours<br><input type="checkbox"/> Excavation started prior to underground facility locate<br><input type="checkbox"/> Operator failed to mark underground facility within 24 inches horizontally<br><input type="checkbox"/> Excavator failed to renew excavation or location request prior to the expiration of the twenty-one-day period<br><input checked="" type="checkbox"/> Excavator failed to conduct the excavation in a careful and prudent manner to avoid damage of underground facilities<br><input checked="" type="checkbox"/> Excavator failed to maintain the markings during excavation<br><input type="checkbox"/> Other (identify the specific section of NDCC Chapter 49-23) _____ |
| Location of Violation:<br>105 10th St SW, Watford City, ND  |
| Date and Time of Violation:<br>on or about 8:09PM on 20 August 2019   |
| Description (summarize the observations on which you rely to allege the violation) <i>If more space is required, please provide the description on a separate page.</i><br><br>Contractor was digging at the above noted address. During construction the locate marks were not maintained causing damage to a natural gas service line. Upon arrival MDU employee all locates had been removed with the exception of 1. Wagner supervisor on site was Paul Geving.   |

## PART D – DAMAGE

|  |               |                                   |
|--|---------------|-----------------------------------|
| Fatalities<br>0  | Injuries<br>0 | In-patient Hospitalization<br>0   |
| Underground facility type(s) and Operator(s) affected:<br>1" PE natural gas service line |               |                                   |
| Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$<br>858.39     |               | Number of Customers Affected<br>1 |
| Other impact of event:   |               |                                   |
| Please attach photos of Event Area or Damaged Facility                                   |               |                                   |

## PART I – SIGNATURE

|  |                   |
|--|-------------------|
| Signature of Person Filing Complaint<br>Paul Riely | Date<br>9/13/2019 |
|--|-------------------|

**Submit**

If the "Submit" function is not working properly, please print the completed form and then either **email to** ndpsc@nd.gov, **fax to** 701-328-2410 or **send to** Public Service Commission, 600 E Boulevard Ave Dept 408, Bismarck ND 58505-0480.

Telephone: (701) 328-2400

1 PU-19-330 Filed 08/14/2019 Pages: 1  
North Dakota One-Call Complaint  
Montana-Dakota Utilities Co.  
Paul Riely, Field Ops Supervisor