



Public Service Commission

State of North Dakota

COMMISSIONERS

Brian Kroshus
Julie Fedorchak
Randy Christmann

December 19, 2019

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

Mark Stotesbery
Randall's Excavating, Inc.
PO BOX 99
Glyndon, MN 56547

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

Dear Mark:

Enclosed is a copy of a ND One-Call Complaint, against Randall's Excavating, Inc., received by the North Dakota Public Service Commission on December 18, 2019, from Robert Johnson at Midcontinent Communications, of Sioux Falls, SD, Case Number PU-19-384. The location of the damage identified in the complaint is approximately 1126 W Main Ave, West Fargo, 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 January 6, 2020**, 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 Randall's Excavating, 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 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: Robert Johnson

2 **PU-19-384** Filed: 12/19/2019 Pages: 3
Letter enclosing North Dakota One-Call Complaint



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 Midcontinent Communications	Street Address 3901 N Louise Ave	City Sioux Falls	State and Zip Code SD 57109
Telephone and Cell Phone Number 701.335.4228 701.739.1319	Email Address robert.johnson@midco.com		Date 12/18/2019
<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 Randalls Excavating, Mark Stotesbery	Street Address 533 2nd St SE, Po Box 99	City Glyndon	State and Zip Code MN 56547
Telephone and Cell Phone Number 218.498.2475, 320.333.0744		Email Address stotes9@gmail.com	

PART C – ALLEGED VIOLATION

<input type="checkbox"/> Operator failed to provide or update the information provided to the notification center on a timely basis <input type="checkbox"/> Excavator failed to provide excavation or location notice at least 48 hours before beginning any excavation <input type="checkbox"/> Excavator failed to provide required information in excavation or location notice <input type="checkbox"/> Notification center failed to transmit the notice to every operator that has an underground facility in the area of the excavation <input type="checkbox"/> Notification center failed to inform the excavator of the names of operators of underground facilities in the area <input type="checkbox"/> Operator failed to locate and mark underground facility within 48 hours <input type="checkbox"/> Excavation started prior to underground facility locate <input type="checkbox"/> Operator failed to mark underground facility within 24 inches horizontally <input type="checkbox"/> Excavator failed to renew excavation or location request prior to the expiration of the twenty-one-day period <input type="checkbox"/> Excavator failed to conduct the excavation in a careful and prudent manner to avoid damage of underground facilities <input type="checkbox"/> Excavator failed to maintain the markings during excavation <input checked="" type="checkbox"/> Other (identify the specific section of NDCC Chapter 49-23) <u>49-23-06, damage to utility and failure to contact operator.</u>
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Location of Violation:
1126 W main Ave West Fargo, ND

Date and Time of Violation:
Approximately October 14th, no timeframe known.

Description (summarize the observations on which you rely to allege the violation) *If more space is required, please provide the description on a separate page.*

See attached

PART D – DAMAGE

Fatalities N/A	Injuries N/A	In-patient Hospitalization N/A
Underground facility type(s) and Operator(s) affected: Communication Coax cable & Conduit. Midcontinent Communications - Midco		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$ \$3,572.40	Number of Customers Affected 0	
Other impact of event:		
Please attach photos of Event Area or Damaged Facility		

PART I – SIGNATURE

Signature of Person Filing Complaint Robert Johnson	Date 12/18/2019
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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

12/18/2019

Randall's excavating had a locate called in for 1126 Main Ave West Fargo, ND for ticket #19135142, 19120033, 19149371. The additional tickets are for re-spots of the project location.

The project for Randall's excavating overlapped a project that Midco had planned for a new service cable in this area. The new service was placed after Randall's excavating locate had cleared for their work to proceed. Since there was an overlap in dates the Midco cable in question was not located for Randall's Excavating. Randall's excavating proceeded with their work and in doing so damaged Midco's cable that was in their scope of work area. This complaint is in reference to section 49-23-06 of the ND One Call handbook failure to contact operator when damaging an operator's utility.

This complaint is based off two discussion's with Mark Stoteberry (Randall's excavating employee). Mark had stated to a Midco tech Nathaniel on 10/26 during another emergency locate request that Randall's excavating had damaged a Midco utility during their project on 1126 Main Ave a couple weeks back. Upon investigating on 10/29/2019 by other Midco technicians they found and confirmed the damage utility.

Robert Johnson called Mark Stotebery on or around November 26th to discuss the damaged Midco utility. In this discussion Mark confirmed that they did hit a utility during their construction that was not marked. When Robert asked why Midco was not notified until two weeks later regarding the hit utility, Mark simply stated he did not have time to call every time they hit a utility that is not located properly. Robert stated that all damaged utility per ND One Call by an excavator are required to contact the operator of the damage.