

Memorandum

To: Commissioners Kroshus, Fedorchak and Christmann

From: Victor Schock Public Utility Analyst

(v9)

Date: December 30, 2020

Re: ND One-Call Complaint
Case No. PU-20-095

On March 2, 2020, a ND One-Call Complaint was received from Brian Reilly with Walsh Rural Water District (Walsh) alleging that NC3, LLC (NC3) 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.

On August 31, 2020 Staff filed a formal complaint against NC3.

On September 23, 2020 the Commission found the complaint states a prima facie case and directed it to be served upon NC3.

On October 21, 2020 Staff received additional details on the case from NC3, which were subsequently verified by Walsh.

Staff investigation found that on September 5, 2019 NC3 personnel provided an excavation notice to the North Dakota One-Call Notification Center (NDOC) for the location identified in Walsh's complaint. The ticket noted that the work being done was installing fiber optic line, had a work to begin date of September 10, 2019 and an expiration date of October 1, 2019. NDOC assigned ticket number 19120163 to the excavation notice.

The status history for ticket 19120163 shows that Walsh marked their underground facility on September 6, 2019 with no additional notations. On September 24, 2019 NC3 began its excavation to install fiber optic line near the intersection of NE County Road 8 and 72nd St NE, near Grafton, ND. As a result of the excavation, a water service line was damaged causing approximately \$5,508.04 in damages and lost water. Staff found that the line was struck in excess of 24 inches from the marks placed by Walsh.

In this case, the water line was installed prior to August 1, 2013, which relieves Walsh of its duty to mark their underground facility within 24" horizontally. However, Walsh did not notify NC3 that the marks may not be within 24" of the facility, which relieved NC3 of its duty to excavate carefully in excess of 24" from the markings.

Based on this evidence, Staff is asking the Commission to withdraw its complaint and close the case.

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Public Service Commission Staff

Victor Schock