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July 13, 2020

**Sent Via Email:**

ND One-Call Board  
PO Box 1015  
Bismarck, ND 58502

**RE: PU-20-273 Midco Rebuttal Response**

Hello,

In reference to the above Complaint, Midcontinent Communications (“Midco”) is compelled to respond to the allegations made by Wagner Construction in its response to the Complaint.

In its response to the first cut issue, Wagner states “All underground work had already been completed in this area of the project.” This is clearly an incorrect statement in that Wagner admits in the next sentence the excavator was still working in the area. It matters not what the reason is for the excavation—*only that the excavation is occurring*. In addition, the excavator operator admitted to Midco personnel he needed more fill and so “scraped off a little more dirt” when the cut occurred.

As to the statement made by Wagner concerning the depth of the buried line, this is a completely false statement. Midco provided Apex Engineering with GPS data showing the depth of the line. In addition, the evidence showed Wagner was not digging by hand to expose the line as required by the rules.

Finally, Wagner states the lines were improperly marked. Again, this is a false statement. Midco has photographs of the markings prior to Wagner’s construction. These photos were taken when the markings were placed in response to Ticket No. 20043011 on May 18, 2020. Wagner failed to maintain these marks as required by the Rules.

Thank you for your consideration.

Reggie Schaan  
Field Service Manager  
Midco