

PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA

M E M O R A N D U M

TO: Commissioners Fedorchak, Christmann, and Haugen-Hoffart
Steve Kahl, Executive Secretary

FROM: Konrad Crockford, Director, Compliance Division *KSC*

DATE: July 18, 2022

RE: ND One-Call Complaint
Case No. GS-22-198

On May 18, 2022, a ND One-Call Complaint was received from Kurt Stellrecht with Stellar Trenching, Inc. (Stellar) alleging that Northern States Power/Xcel (Xcel) violated N.D.C.C. Chapter 49-23 One-Call Excavation Notice System for failing to locate an underground facility within 48 hours.

On May 10, 2022, Stellar called in a ND One-Call ticket to install Cat5 conduit at 4553 9th Ave. SW, Fargo, North Dakota. Xcel marked their facilities on May 12, 2022. On May 17, 2022, Stellar struck unmarked underground electrical cables running to an Xcel electric meter on the side of the building.

Staff investigated the complaint and found that the electrical lines struck by Stellar are privately owned. While the meter is owned by Xcel, the electrical lines feeding it are not. According to Xcel and their rules for commercial structures, the electrical facilities owned and operated by Xcel end at the transformer and any electrical facilities providing service from the transformer to the commercial structure are the responsibility of the structure owner. Private ownership of the electrical facility in question is also supported by the fact that Stellar hired a commercial electrician to repair the damaged facility.

N.D.C.C. § 49-23-04(6)(a) states:

An operator with underground facilities within the area of a location request shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator within the location period or as agreed by the parties.

N.D.C.C. § 49-23-01(15) states:

"Operator" means a person who owns or operates an underground facility, including a master meter operator with underground facilities, or a state or local governmental entity. The department of transportation is considered an operator for the department's facilities buried on the department's rights of way. A person is not considered an operator solely because the person is an owner or tenant of real property where underground facilities are located if the underground facilities are used exclusively to furnish services or commodities on that property. (Emphasis added)

Based on the investigation, Staff does not intend to file a formal complaint, recommends that no further action be taken, and the case be closed.