



Public Service Commission

State of North Dakota

COMMISSIONERS

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October 4, 2022

Eric Wilson
Midcontinent Communications.
PO Box 5010
Sioux Falls SD 57117
eric.wilson@midco.com

via electronic mail only

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

Enclosed is a copy of the ND One-Call Complaint against Midcontinent Communications received by the North Dakota Public Service Commission (Commission) on August 31, 2022, from Brian Meyer, Industrial Builders, Inc., West Fargo, North Dakota, Case Number DM-22-354. The location identified in the complaint is 120 3rd Avenue East, Richardton, North Dakota.

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 21, 2022**, with your written account of the event, including the applicable One-Call locate ticket number for work performed at the location indicated above.

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 Midcontinent Communications 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 701-328-4097 or kcrockford@nd.gov with any questions regarding this correspondence.

Sincerely,

Konrad Crockford ^{PST}
Director, Compliance Division

Enc: ND One-Call Complaint

c: Brian Meyer
Industrial Builders, Inc.
brian@industrialbuilders.com



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 Industrial Builders, Inc. Brian Meyer	Street Address 1307 CR 17 N	City West Fargo	State and Zip Code ND 58078
Telephone and Cell Phone Number 701-282-4977 cell 701-541-2936	Email Address brian@industrialbuilders.com		Date 8-31-22
<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 Midco Eric Wilson	Street Address	City	State and Zip Code
Telephone and Cell Phone Number 701-339-7619	Email Address eric.wilson@midco.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) 49-23-01-7.d Operator's line was buried too shallow, it was buried less than 12" deep from the surface of a paved roadway where the original grade did not change.
Location of Violation: 120 3rd Ave. East, Richardton, ND
Date and Time of Violation: 7-16-22, time is unknown
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> The work consisted of milling and blending cement to a total depth of 11" from the surface of the existing asphalt street. The existing asphalt in this vicinity was 6" deep, so the line would have been 5" or less below the bottom of the asphalt. It is not common practice to do a locate request for milling and reclaiming when the work is only on the roadway surface and where there is no work in the ditches.

PART D – DAMAGE

Fatalities None	Injuries None	In-patient Hospitalization None
Underground facility type(s) and Operator(s) affected: Midco Line		
Estimated Value of Damage (damage as defined under NDCC Chapter 49-23): \$ 3,171.93	Number of Customers Affected Unknown	
Other impact of event:		
Please attach photos of Event Area or Damaged Facility		

PART I – SIGNATURE

Signature of Person Filing Complaint <i>Brian Meyer</i>	Date 8-31-22
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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

1 DM-22-354 Filed 08/31/2022 Pages: 1
North Dakota One-Call Complaint
Industrial Builders, Inc.
Brian Meyer