

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

DATE: November 01, 2022

RE: ND One-Call Complaint
Case No. DM-22-354

On August 31, 2022, a ND One-Call Complaint was received from Brian Meyer with Industrial Builders, Inc. (Industrial Builders) alleging that Midcontinent Communications (Midco) violated N.D.C.C. Chapter 49-23 One-Call Excavation Notice System for failing to bury their facility to an adequate depth.

On July 16, 2022, Industrial Builders was milling and blending cement to a depth of 11 inches on an existing asphalt street in Richardton, North Dakota. During this project, Industrial Builders struck and severed Midco's facility. Midco subsequently billed Industrial Builders \$3,171.93 for the repair.

On October 21, 2022, Midco responded to the ND One-Call complaint stating that Midco investigated the damage further and subsequently decided to cancel the bill due to the depth of their line and the depth of Industrial Builder's excavation.

Staff investigated the complaint and found that while Industrial Builders did not have a valid ND One-Call Ticket, under N.D.C.C. § 49-23-01(7)(d) "normal maintenance of roads and streets if the maintenance does not change the original grade and does not involve the road ditch" is excluded from the definition of excavation and therefore does not require a ND One-Call Ticket to be acquired. Furthermore, the ND One-Call Excavation Notice System Law does not provide any requirements for how deep underground facilities need to be buried.

Based on the investigation, there is not sufficient evidence to support a violation. Therefore, Staff does not intend to file a formal complaint, recommends that no further action be taken, and the case be closed.