

PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA

M E M O R A N D U M

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

FROM: Konrad Crockford, Director, Compliance Division

DATE: November 8, 2024

RE: North Dakota One-Call Complaint
Case No. DM-24-318

On August 20, 2024, a North Dakota One-Call Complaint (Complaint) was received from Ashley Tostenson alleging Valley City Public Works (VCPW) violated N.D.C.C. Chapter 49-23 One-Call Excavation Notice System by failing to mark their underground facility within 24" horizontally.

The Complaint alleges that on August 9, 2024, while digging post holes for a fence installation, they struck an unmarked power line that VCPW marked "Clear/No conflict" on the one-call ticket.

On June 19, 2024, Ms. Tostenson placed an excavation notice with the North Dakota One-Call Operations Center (NDOC). NDOC assigned ticket number 24068296 with a work to begin date of June 22, 2024, and an expiration date of July 13, 2024. On June 20, 2024, VCPW marked the ticket "Clear/No conflict." On August 9, 2024, Ms. Tostenson's father, Daniel Tostenson, was excavating with a mechanical auger and damaged the outer insulation of the power line.

Staff investigated the complaint and identified the following contributing factors:

- Mr. Tostenson excavated 27 days after ticket 24068296 expired. This was 51 days since VCPW was onsite to mark the facilities. Locating marks could have easily been obliterated during this period. Mr. Tostenson did not realize tickets expire.
- VCPW operates multiple underground facilities (electric & water/sewer) but only has one designated space on the one-call ticket for providing a positive response. In this situation, VCPW's water/sewer locator was the last to locate facilities and marked the ticket "clear/no conflict" which overwrote VCPW electrical locator's positive response of "Marked." Since this incident, VCPW has worked with NDOC to allow VCPW to provide a positive response for each facility type.

Based on the investigation, there is not sufficient evidence to support the allegation. With that being said, Staff took this as an educational opportunity to discuss the contributing factors with both VCPW and Mr. Tostenson. Staff's conversations with the parties were positive and is confident that changes have been made to reduce the risk of a situation like this occurring in the future which is the goal of the Damage Prevention Program. Staff does not intend to file a formal complaint. Additionally, Staff recommends that no further action be taken, and the case be closed.