



Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

600 East Boulevard Ave
Dept. 408
Bismarck, ND 58505-0480
701-328-2400
ndpsc@nd.gov

**RESPONSE REQUIRED BY
September 11, 2026**

August 17, 2026

Darin Keller
James Bozovsky
Martin Construction Inc
3685 116th Ave SW
Dickinson ND 58601

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

Enclosed is a copy of the North Dakota One-Call Complaint against Martin Construction, Inc. received by the North Dakota Public Service Commission (Commission) on September 4, 2025, from Midco, Bismarck, North Dakota, Case Number DM-25-246. The location is identified in the complaint.

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 September 11, 2026**, with your written account of the event, including the applicable One-Call locate ticket number(s) for work performed at the location identified in the complaint and in connection with the enclosed complaint.

Your response and the North Dakota 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 with the Commission a formal complaint against Martin Construction, Inc. which may result in a civil penalty up to \$25,000 per violation in accordance with 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
Director, Compliance Division

Enclosure: North Dakota One-Call Complaint



ONE-CALL COMPLAINT
PUBLIC SERVICE COMMISSION
SFN 59067 (08/2022)

INSTRUCTIONS: To allege a violation of the One-Call Excavation Notice System (N.D.C.C. Chapter 49-23), complete this form in its entirety.

SECTION I – COMPLAINANT (Individual/entity completing form)

Company/Entity Name (if applicable) Midco			
Contact Person Randy Heaton	Email Address Randy.Heaton@midco.com	Telephone Number 701-471-3530	
Mailing Address 719 Memorial Highway	City Bismarck	State ND	Zip Code 58504
Complainant is willing and able to testify on the complaint if matter proceeds to a formal hearing.		☒ YES	☐ NO

SECTION II – RESPONDENT (Individual/entity who allegedly violated the One-Call law)

Company/Entity Name (if applicable) Martin Construction			
Contact Person Darin Keller, James Bozovsky	Email Address	Telephone Number 701-483-3478	
Mailing Address 3685 116th Ave SW	City Dickinson	State ND	Zip Code 58601

SECTION III – ALLEGED VIOLATION

OPERATOR – A person or entity who owns or operates an underground facility (i.e.: natural gas, electric, sewer, etc.).			
☐ Operator failed to mark or clear underground facility within locate period.	☐ Operator failed to mark underground facility within 24 inches horizontally.		
EXCAVATOR – A person or entity who conducts excavation (i.e.: homeowner, property owner, company, etc.).			
☐ Excavation started prior to underground facility locate.	☒ Excavator failed to provide locate notice prior to beginning excavation.		
☒ Excavator failed to conduct the excavation in a careful and prudent manner.	☐ Excavator failed to renew locate request prior to expiration of the 21-day period.		
OTHER – May be issue/concern with One-Call Center or other alleged violation that is not listed under operator or excavator.			
☐ Write Issue/Concern: _____			

SECTION IV – DESCRIPTION/DAMAGE

Date and Time of Event 8/27/2025 8:08AM	Location (Address, City, State / Nearest Intersecting Streets / Lat & Long) 3929 Memorial Highway Mandan ND	One-Call Ticket Number 25106409
Underground Facility Affected ☐ Electric ☐ Gas ☒ Cable ☒ Communications ☐ Water ☐ Sewer/Storm Water ☐ Petroleum ☒ Other Fiber		
Material & Size of Underground Facility (Poly, Steel, Coated Pipe / Fiberoptic / 2 KW / 1.5 in, 2 in / etc.) 4 Fibers (144, 96, 72, 48) counts		Operator(s) Affected Midco
Estimated Value of Damage \$35,485	Injuries (List Number, If Any) Fatalities _____ Injuries _____ Hospitalizations _____	Number of Customers Affected over 30,000
Description of the alleged violation/concern. If more space is required, attach additional page(s). Description of the violation attached.		

SECTION V – SIGNATURE OF COMPLAINANT

Signature <i>Randy Heaton</i>	Printed Name Randy Heaton	Date 9-4-2025
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On August 27, 2025, Martin Construction violated North Dakota One Call laws by damaging Midco's underground facilities during excavation.

Martin Construction called in locates for underground facilities and Midco properly marked its facilities. Martin Construction failed to maintain adequate clearance from the markings as they did not pothole and spot the underground facilities. Martin Construction also failed to maintain the markings and scraped them away with the excavating equipment during excavation. After Martin Construction damaged the conduit containing Midco's underground facilities, they did not stop operations and immediately notify Midco, as required under North Dakota's one-call laws. Instead, Martin Construction continued to perform work, which caused additional damage. In all, Martin Construction damaged 144 count, 96 count, 72 count and 48 count fiberoptic cables and conduit. This is the second fiber cut by Martin Construction on Memorial Highway during this project.

On 6/10/25 they cut a 72 count fiberoptic cable. The cause of that damage was due to a failure to call in locates for the work they were performing.

This damage affected the following customers and services:

Infinera – Fiberoptic services:

2.5G WAVE Customers – 2

10G WAVE Customers – 11

100G WAVE Customers – 2

Dedicated Fiber – 4 customers

Cell Towers – 5 cell sites (number of end-users impacted unknown)

Low Earth Orbit (LEO) satellite backhaul – 1 provider (number of end-users impacted unknown)

Minot Air Force base

Legacy Cable Television:

Services unavailable to 21,165 customers across the Dickinson, New Salem, Glen Ullin, Hebron, Bismarck, and Lincoln, North Dakota, franchises.

Mandan Fiberoptic Nodes Impacted – 43

9,276 customers impacted for the following services:

- 2,199 legacy video customers

- 4,728 data customers

- 665 telephone customers

- 1,684 MidcoTV customers

The cost to Midco to repair the damage (not including customer credits and any loss of goodwill due to the outage): \$35,485