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Thursday, Sept. 17, 2015

Testimony to the Economic Impact Committee
 Roughrider Room, North Dakota State Capitol, Bismarck

Madam Chairman Triplett and committee members,

My name is Tom Rafferty and I am the community relations manager for Verendrye Electric Cooperative, with offices in Velva and Minot. We serve a seven-county area, parts of Minot and the Minot Air Force Base. I am here to ask the committee to consider changes in the One Call laws we believe will help prevent death, injury and property damage, and increase the efficiency of how locates are handled.

We would like to see this committee study the following three proposals:

1. Establish a minimum fine for damaging an underground utility that is high enough to deter violation of the One Call laws, and establish a clear method and schedule of how to progressively assess higher fines for repeated violations.
2. Clarify the penalties for violating provisions of the One Call laws, such as failing to maintain markings.
3. Change the law to cut down on unreasonably large locate requests and an unreasonable number of relocate requests. We recommend contractors should only be allowed to ask for one mile of locates per request. There should be clear fines for failing to maintain markings and for excessive relocate requests.

Background information

In 2014 we had 35 instances of our underground power lines being hit, affecting 2,431 consumers. This includes homes, farms and businesses. Someone could have been injured or killed in any one of these cases. In 2014 we responded to 10,019 locate requests, 1,353 respot requests and 306 emergency tickets.

Economic Impact

Our main goal here is to prevent death and injury, but since this is the Economic Impact Committee, I need to talk about the very negative economic impact dig-ins have on our members.

Verendrye serves large businesses like Wal-Mart, Dakota Square Mall and many others. If Wal-Mart loses power, they could be out as much as \$50,000 each hour in lost sales, and possibly more if food has to be thrown out or if equipment is damaged. Agribusiness we serve like ADM's canola crushing plant in Velva, and Minot Milling, also suffer thousands of dollars each hour they lose power because of lost production, maintenance and resetting and clearing of equipment.

Farms and homes are also inconvenienced, and in some cases, equipment is damaged. No matter whose fault it is, we can have hundreds of members calling us concerned about why an outage occurred and in some cases, asking us to pay for a damaged appliance or electronic device.

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I want to point out three specific cases that illustrate our concerns.

Cell tower complaint

We filed a complaint with the Public Service Commission against a company after their employees augered a hole near a transformer serving a cell tower. They hit a 7,200-volt line in December, resulting in an outage affecting 13 members for 2 hours. Their locate ticket expired the previous September. They paid damages of \$508.36 and were assessed a \$1,300 fine by the Public Service Commission. The man running the auger is lucky he isn't dead. We believe higher fines would encourage companies to follow the law.

Near miss in business district

In August 2014, a company hit a 12,500-volt underground line with a backhoe while working on construction of a new gas station. Luckily, the line was not totally severed, because had it been cut, someone could have been killed, and the Dakota Square Mall and hundreds of other businesses in Minot would have been without power. They called 811, but started digging before the 48-hour waiting time. They paid us \$1,300 in damages and were fined \$700 by the PSC. Again, it's lucky no one was killed. We believe the fines are so small that they would rather pay them than wait for the locate.

Excessive locates

In this last case, nothing was damaged, but it illustrates the high costs we incur when a contractor fails to follow One Call rules. We filed a complaint with the PSC on Oct. 20, 2014 for excessive relocate requests from a company for a project in southeast Minot. The company filed more than 40 locate requests for the same project. On one day, the company called in three locate requests for the same project. Other times they called in emergency locate tickets. Utility workers on the site saw the company destroy the markings with no attempt to preserve them.

We have billed the company \$4,100 for our expenses, but we have yet to be paid. Both Verendrye and SRT Communications Inc. filed a complaint. It's been 11 months and we have not received a formal response from the PSC. In an e-mail, a PSC staffer said there is no law that prohibits excessive 811 calls and that it would be difficult to prove whether a company reasonably maintained their markings. We think there needs to be fines for people who abuse the One Call system in this manner.

Conclusion

We appreciate the improvements that have been made in the One Call law, but to protect lives and property, we think more can be done. We can improve One Call by setting a minimum fine, by establishing a clear method of how to progressively assess fines, and by strengthening provisions that will cut down on unreasonable locate requests. We do not want One Call laws to be unreasonable because Verendrye also does a lot of digging and we are happy to follow the same laws everyone else does because it's a matter of safety.

Respectfully submitted,



Tom Rafferty

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