

South Dakota



Know what's below.
Call before you dig.

August 5, 2020

Mr. Joseph Muth
CenturyLink
312 South Cliff Avenue
Sioux Falls, South Dakota 57103

Mr. Joe Schauer
Runge Enterprises
4801 North Velocity
Sioux Falls, South Dakota 57118

Re: OC20-035 CenturyLink vs. Runge Enterprises.

Under the authority granted by SDCL-49-7A-22, the Enforcement Panel of the South Dakota One Call Notification Board met on July 30, 2020 to determine whether there is probable cause to believe a One Call violation occurred in Complaint Docket **OC20-035**. The Enforcement Panel's findings are enclosed. You may request a hearing according to SDCL-49-7A-27, if you disagree with the Enforcement Panel findings. If you do request a hearing you must be represented by legal counsel at the time you present your case to the One Call Board.

Failure to respond to this notice or request a hearing is considered acceptance of the Enforcement Panel Recommendation. In that case, the Recommendation will be Ordered by the South Dakota One Call Notification Board and your right to hearing is waived.

If you choose to request a hearing you must return the signed and dated form prior to the close of business on August 25, 2020.

South Dakota One Call Notification Board
PO Box 187
Rapid City, South Dakota 57709

Be aware, any future violations of any One Call statute or rule may be subject to additional penalties up to \$10,000 for each subsequent violation that occurs within twelve months of the initial violation. If you have procedural questions relative to this complaint, please contact me at 605-863-0951 or by email at deputydirector@sd811.com. Do Not Contact any members of the South Dakota One Call Notification Board to discuss this complaint since members may be involved in a hearing if one is requested.

Cody M. Gregg

Cody M. Gregg
Deputy Director
South Dakota One Call

**REQUEST FOR A HEARING
COMPLAINT OC20-035**

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC20-035 AND
REQUEST A HEARING.**

Signature – CenturyLink

Date

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC20-035 AND
REQUEST A HEARING.**

Signature – Runge Enterprises

Date

**YOUR REQUEST FOR A HEARING MUST BE SENT TO ALL OTHER
PARTIES INCLUDING:**

**SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
PO BOX 187
RAPID CITY, SOUTH DAKOTA 57709**

**Failure to request a hearing will result in acceptance of the Enforcement Panel's
Recommendation by the South Dakota One Call Board. The Board will then
Order the Recommendation as the final disposition of this Complaint.**

JennaBEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT
FILED BY CENTURYLINK, SIOUX
FALLS, SD AGAINST RUNGE
ENTERPRISES, INC., SIOUX FALLS, SD,
FOR AN INCIDENT OCCURRING ON
JUNE 19, 2020 AT 273RD STREET,
HARRISBURG, SD.

**ENFORCEMENT PANEL
RECOMMENDATION TO THE SOUTH
DAKOTA ONE CALL BOARD**

OC20-035

On June 18, 2020, the South Dakota One Call Board received a Complaint filed by CenturyLink (herein "CenturyLink"), against Runge Enterprises, Inc., (herein "Respondent") for an incident occurring on June 19, 2020, at 273rd Street, Harrisburg, SD. The Complaint alleges a violation of SDCL 49-7A-5, 49-7A-12, and 49-7A-20 when Respondent knowingly used a backhoe to dig in the ditch where facilities are running through the Right of Way and failed to call in locates putting all facilities at risk.

A copy of the Complaint was sent to Respondent on June 30, 2020. The deadline to respond was July 22, 2020. Respondent answered the complaint on July 14, 2020 and does not dispute that a violation of South Dakota One Call law occurred.

On July 30, 2020, the Enforcement Panel (herein "Panel") convened pursuant the authority present in SDCL 49-7A. The Panel does find probable cause to believe that unintentional violations of SDCL 49-7A-5 and 49-7A-12 occurred. SDCL 49-7A-20 was addressed by recommending separate penalties.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$1,000 with \$0 suspended per violation for a total recommended penalty of \$2,000 with \$0 suspended upon the conditions listed below. The conditions for the suspended penalty are as follows:

1. Respondent must not be found guilty of a One Call violation within 12 months of the Board Order,
2. The penalty payment of **\$2,000** must be made to **P.O. Box 187, Rapid City, SD 57709**, within 30 days of the Board Order,
3. Respondent must attend a Damage Prevention meeting in 2021,

4. Respondent must conduct an in-house safety meeting to discuss South Dakota One Call laws. Detail of the discussion material, date, and length of the meeting along with printed and signed names of attendees will be submitted to the Executive Director of South Dakota One Call within 30 days of the Board Order.
5. Respondent will arrange a face-to-face meeting with CenturyLink to review the damage, dangers while working around utilities, and safe practices. This meeting is to take place within 30 days of the Board Order being issued.

If any of the above conditions are not met, the suspended penalty (**\$0**) becomes immediately due and payable to **P.O. Box 187, Rapid City, SD 57709.**

The Panel recommends the South Dakota One Call Board accept its findings and recommendations herein. If either party to this Complaint disagrees or objects to the recommendations or findings herein, a hearing may be requested. To request a hearing, a party must reply within twenty days from the date of service of this notice. Failure to request a hearing is considered acceptance of the recommendations and findings herein.

The South Dakota One Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A and ARSD 20:25.