

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

<p>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.</p>	<p>ORDER ADOPTING ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</p> <p>OC20-035</p>
--	--

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 City of Mitchell 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.

On August 4, 2020, the Panel's recommendation was sent to the parties to this action. The parties did not request an evidentiary hearing. The Board reviewed the Panel's recommendations at its August 27, 2020 meeting pursuant to SDCL 49-7A-27. The Panel's recommendation was approved by the Board. It is now, therefore:

ORDERED, that the South Dakota One Call Board adopts the recommendations of the Panel as a final resolution of this Complaint. The Panel's findings are attached hereto and shall be considered fully incorporated herein.

The South Dakota One Call Notification Board has jurisdiction over this matter pursuant to SDCL 1-26 and 49-7A and ARSD Article 20:25, specifically SDCL 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22 and 49-7A-26.

Dated this 23th day of September 2020.

BY ORDER OF THE SOUTH DAKOTA ONE CALL
NOTIFICATION BOARD:

DocuSigned by:
Fay Sandman
91AEC86AEFF9499
