

COMPLAINT DOCKET NUMBER:	OC20-039
Reply filed on behalf of (company name):	Montana Dakota Utilities
Contact Person:	Marcus Christensen
Phone	(605) 355-4000
Name or Company Name:	Montana Dakota Utilities
Street Address or PO Box	PO Box 1060 Rapid City, South Dakota 57709 United States
Email	marcus.christensen@mdu.com
Date	Jul 29, 2020
Were you previously aware of these allegations?	No
Do you believe the statutes listed (if any) by the complainant were violated?	No
Why or why not?	
<p>49-7A-9. Failure to provide timely location markings--Inadequate markings--Liability. If location markings requested by an excavator are not provided within the time specified by § 49-7A-8 or any rule promulgated pursuant to § 49-7A-8, or if the location markings provided fail to identify the location of the underground facilities in accordance with statute and rule, any excavator damaging or injuring underground facilities is not liable for such damage or injury except on proof of negligence.</p> <p>The locates requested by the contractor were accurate and done with the time allotted by the 811 laws. The located contractor hired by MDU located the line near the house foundation and painted a 3ft safety circle at the house. They then arrowed off in the direction of the front of the house clearing that area of the gas.</p> <p>49-7A-13. Inability to locate underground facility. If in the course of excavation the excavator is unable to locate the underground facility or discovers that the operator of the underground facility has incorrectly located the underground facility, he shall promptly notify the operator, or, if unknown, the one-call notification center.</p> <p>The contractor submitted re-spot and verification tickets on the same day they are saying we are in violation. ELM was prompt in their arrival to come and re-spot and verify. The only reason why the MDU tech was at the address was because they had orders to do a meter exchange at the house. MDU tech was not onsite to verify the location of the gas. Since the tech was there they helped out anyways because that is what MDU does. ELM showed up shortly afterwards to complete their re-spot ticket and verification tickets even while the MDU tech was onsite. The contractor has to realize it takes time to get the locate companies onsite to do this work.</p>	
Do you dispute the alleged violation of SD One Call statute or rule occurred?	Yes
If yes, what specifically do you dispute?	49-7A-9 and 49-7A-13
Do you dispute the complainant's statements regarding the intentional or unintentional nature of the alleged violation?	Yes

If yes, please explain:

MDU needs our facilities accurately located to avoid injury or death. MDU frowns at the statement saying that we would intentionally miss locate our facilities. MDU is always available to assist contractors to locate our gas lines if they are unable to. MDU does not want to see anyone get hurt or killed.

Was a locate requested from SD One Call? No

If no, please explain why no locate request was made:

NA, MDU was not digging and the violation in question is whether MDU gas line was accurately located.

Did excavation begin before the start date / time on the ticket? No

Was a minimum horizontal clearance of 18 inches maintained between a marked facility and mechanical equipment? Yes

Were buried facilities exposed by hand or non-invasive equipment prior to excavation? Yes

Were facilities marked? Yes

Was the marking complete prior to the start time on the ticket? Yes

Was the excavation site pre-marked with white paint? Yes

Was the facility marked accurately (within 18 inches)? Yes

Was there reasonable care to maintain locate marks for the life of project? Yes

Did the complainant correctly describe the type of facility involved? No

Provide detail:

The contractor is stating they spent all this time looking for the gas line when in fact they spent the majority of their time looking for the power. The contractor actually caused damage to our facility locating it which caused us to have to make repair that we didn't charge them for our time and material. The MDU tech moved the riser temporarily to avoid the contractor causing further damage which could have resulted in someone getting injured and even death.

Did the complainant correctly describe the damages that resulted from the alleged violation? No

Provide detail:

NA no reportable damage occurred.

Was the one-call notification center immediately notified of the damage, dislocation, or disturbance? No

If No, why not?

NA no reportable damage occurred.

Was the operator of the facility immediately notified of the damage, dislocation, or disturbance?

No

If No, why not?

NA no reportable damage occurred.

Was there an escape of any flammable, toxic, or corrosive gas or liquid?

No

Did the complainant correctly describe the damages that resulted from the alleged violation?

No

If no, provide detail:

NA no reportable damage occurred.

Were damages on public right of way or private property?

Private

Did complainant correctly describe how operator service was affected?

No

Provide detail:

Contractor was looking for the power majority of there time spent there. Gas was accurately locate and cleared of going to the front of the house. All the rules were followed.

Was anyone injured as a result of facility damage?

No

Were there fatalities?

No

Describe your plans and procedures to ensure compliance with SD One Call statutes and rules:

MDU didnt violate one call law. The facilities were accurately located and with in the time limits according to the 811 laws and rules.

Has a complaint been filed against you in the past for SD One Call violations?

Yes, I don't recall the date

Please provide any additional information to support your position:

Note the contractor is tring to point all the blame to the gas, but the really issue hear is with the locates and accuracy of the power. MDU did what is required by 811 to provide accurate locates in a timely manner and to assist if need be if there is question or doubt of the accuracy of the locates.

Attachment Information

File names should not include symbols. Example:(\$, &, *, %) etc.