

COMPLAINT DOCKET NUMBER:	OC20-041
Reply filed on behalf of (company name):	Prunty Construction Company, Inc.
Contact Person:	Nick Ritter
Phone	(605) 692-1544
Name or Company Name:	Prunty Construction Company, Inc.
Street Address or PO Box	3307 Prince Drive Brookings, South Dakota 57006 United States
Fax	6056921588
Email	nickpcci@swiftel.net
Date	Jul 27, 2020
Were you previously aware of these allegations?	Yes
Provide detail including whom you spoke with:	
Mr. French has previously contacted us about this matter, asking for money as compensation to his daughter who works from home. We turned the claim into our insurance company, who has corresponded with Mr. French and his daughter as well.	
Do you believe the statutes listed (if any) by the complainant were violated?	Yes
Why or why not?	
I did not see that Mr. French listed any statutes specifically. He does, however, claim that we did not notify anybody that the utility line had been hit. As soon as our crew hit the line, an onsite inspector with Stockwell (the project's representative) had a contact person with Midco that she contacted right away. We did not, however, notify 811 as I was not in the office at the time of the incident to call in our ticket number with a damaged utility. Midco (the owner of the damaged utility) was notified immediately and one of their representatives came out immediately.	
Do you dispute the alleged violation of SD One Call statute or rule occurred?	No
Do you dispute the complainant's statements regarding the intentional or unintentional nature of the alleged violation?	Yes
If yes, please explain:	
Mr. French states that Prunty Construction is negligent in the damage to the utility, and that we are at fault. We had a life one call for the vicinity that we were excavating, and followed all procedures required to pothole for the utility. The utility was located, however, the marks were off by well over 18". We hand dug for the utility, and were by no means negligent during this process.	
Was a locate requested from SD One Call?	Yes
If yes, please provide the ticket number and a copy of the locate ticket	
We had numerous live tickets that cover this area as we were working in the streets adjacent to this vicinity as well:	

1922077518
1923184056
1922077520

Locate ticket # 1922077518

Start date on ticket: Aug 12, 2019

Start time on ticket: 02:45 PM

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? NA

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? No

Was the facility marked accurately (within 18 inches)? No

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

Did the complainant correctly describe the type of facility involved? Yes

Provide detail:

The utility that was hit was a Midco communication line. The photographs in the back of his report show a temporary line that Midco had installed after this line had been hit. Due to the circumstances of the road project, they eventually replaced this line across the road with a new line.

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

Provide detail:

Internet was down to some users after the utility had been hit, which could have included his daughter. We were able to have a Midco representative come out immediately so that they could get the line fixed as soon as they could.

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

If No, why not?

I was not in the office at the time of the incident, and did not have access to call in a damaged utility as I did not have immediate access to our current locate ticket number.

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

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? Yes

Were damages on public right of way or private property? Public

Did complainant correctly describe how operator service was affected? Yes

Provide detail:

Internet was down to some users after the utility had been hit, which could have included his daughter. We were able to have a Midco representative come out immediately so that they could get the line fixed as soon as they could.

Was anyone injured as a result of facility damage? No

Were there fatalities? No

Other information regarding injuries or damages:

None

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

I, along with all Prunty Construction supervisors, attended a seminar put on by the SD One Call in Brookings on March 12, 2020. We used this is a tool for all of us to make sure that we are up to date on all rules and regulations, as well as refresher of existing ones. We also have dispersed the 'Daily 811 Excavation Checklist' that was provided at this seminar to all of our employees so that they better understand what we need to do each day when excavating to maintain a safe and compliant environment.

Has a complaint been filed against you in the past for SD One Call violations? No

Please provide any additional information to support your position:

As stated above, we had originally turned the claim that was filed by Mr. French into our insurance company. Through their investigation, including obtaining statements from witnesses who were present when the line was hit, they determined that we had not been negligent while attempting to pothole for the utility. A third party representative of Stockwell Engineering was inspecting our work for the City of Humboldt, and she confirmed our statement that we did pothole on both sides of the marks and were unable to locate the utility. I have included a copy of that letter from our insurance company.

Mr. French also states that another contractor hit the same line at a later time. We were not present in the area during these incidents, and we were not even excavating anywhere near this vicinity at these times as well.

Attachment Information

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