

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT
FILED BY MONTANA DAKOTA
UTILITIES, RAPID CITY, SD AGAINST
SWIFTEC, INC., RAPID CITY, SD, FOR
AN INCIDENT OCCURRING ON AUGUST
24, 2020 AT 2003 PROVIDER BLVD,
RAPID CITY, SD.

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

OC20-058

On September 2, 2020, the South Dakota One Call Board received a Complaint filed by Montana Dakota Utilities Co. (herein “Claimant”), against Swiftec, Inc. (herein “Respondent”), for an incident occurring on August 24, 2020, at 2003 Provider Blvd, Rapid City, SD. The Complaint alleges violations of SDCL 49-7A-8 and 49-7A-12 when Respondent was hit a two-inch (2”) plastic line putting a nick in the pipe and breaking the tracer wire and repaired the tracer wire with their own green wire. Claimant alleges Respondent was not going to notify 811 or the utility company of the damage and that Site Works Specialist notified the proper parties of the damage and stated that Respondent was going to bury the damage. Claimant alleges that Respondent refused to make the calls or provide the locate ticket number when asked.

A copy of the Complaint was sent to Respondent on September 9, 2020. The deadline to respond was September 29, 2020. Respondent has not answered the Complaint as of October 8, 2020.

On October 8, 2020, the Enforcement Panel (herein “Panel”) convened pursuant the authority present in SDCL 49-7A. The Panel does find probable cause that an unintentional violation of SDCL 49-7A-8 and an intentional violation of SDCL 49-7A-12 occurred.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$1,000 with \$750 suspended for the violation of SDCL 49-7A-8 and a penalty of \$1,500 with \$750 suspended for the violation of SDCL 49-7A-12 for a total penalty of \$2,500 with \$1,500 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 **\$1,000** must be made to **South Dakota One Call Notification Board, P.O. Box 187, Rapid City, SD 57709.**
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 thirty (30) days of the Board Order being issued.
5. Respondent will arrange a face-to-face meeting with Claimant to review the damage, dangers while working around utilities, and safe practices. This meeting is to take place within thirty (30) days of the Board Order being issued.

If any of the above conditions are not met, the suspended penalty (**\$1,500**) becomes immediately due and payable to **South Dakota One Call Notification Board, 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 (20) days from the date of service of this notice. Failure to request a hearing is considered acceptance of the recommendations and findings herein.

On November 25, 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 February 19, 2021 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.

ORDERED, that if the penalty is not paid, that the Board shall pursue any rights it has under the law regarding collections.

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 __24th__ day of February, 2021.

BY ORDER OF THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD:

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