

ONE CALL COMPLAINT FORM
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, Sd 57501-5070

COMPLAINT

Allegation of Probable Violation(s) of South Dakota One Call Laws

Received On July 22, 2009 3:17 pm

I. ACTION REQUESTED BY:

COMPLAINT FILED BY: Company
PERSON FILING COMPLAINT: Donna Patrick
COMPANY: Nustar Pipeline Operating Partnership, LP.
ADDRESS: 7340 W 21st. North., Suite 200, Wichita, KS 67205
PHONE NUMBER: (316) 721-7073
EMAIL: donna.patrick@nustarenergy.com
DATE: July 22, 2009

ii. ACTION REQUESTED AGAINST:

NAME OF EXCAVATOR/FACILITY OPERATOR: Loewenberg Technologies
PHONE NUMBER: (605) 335-8175
ADDRESS: 1000 E. Benson, Sioux Falls, SD 57104
WAS A LOCATED REQUESTED FROM SD ONE CALL? No
LOCATE TICKET#:
START DATE ON TICKET:
DID EXCAVATOR WAIT UNTIL THE START DATE/TIME ON THE TICKET BEFORE COMMENCING EXCAVATION? No
WERE BURIED FACILITIES EXPOSED BY HAND OR NON-INVASIVE EQUIPMENT PRIOR TO EXCAVATION? No

III. FACILITY INVOLVED (IF ANY)

TYPE OF FACILITY INVOLVED: Products - Underground Pipeline- Gasoline and Diesel Fuel
OPERATOR OF FACILITY: Nustar Pipeline Operating Partnership
OPERATOR ADDRESS: 3721 S Grange Avenue, Sioux Falls, SD 57105
PHONE NUMBER: (605) 321-7260
DEPTH OF COVER:
PRESSURE:
VOLTAGE:
NUMBER OF CABLE REPAIRS:

IV. MARKING

WERE FACILITIES MARKED? No

WAS THE MARKING COMPLETE PRIOR TO THE START TIME ON THE TICKET? No

DID EXCAVATOR PRE-MARK WITH WHITE PAINT? Yes

WAS THE FACILITY ACCURATELY MARKED (WITHIN 18 INCHES)? N/A

DID EXCAVATOR USE REASONABLE CARE TO MAINTAIN LOCATE MARKS FOR LIFE OF PROJECT? N/A

HAVE YOU DISCUSSED THE PREVIOUS STATEMENTS WITH THE OTHER PARTY? Yes

IS THERE AGREEMENT? No

IF NO, PLEASE EXPLAIN: The excavator claims that we are at fault due to our lines not being marked. Through my investigation, I discovered that Loewenberger Technologies has office manager by the name of Nathan, who entered tickets into IBIS. According to the South Dakota One Call center, they do not have a record of Nathan going through the proper training on IBIS. They did however have on file an employee by the name of Jeni Held who formally worked for Loewenberg Technologies (it has been confirmed with Nathan that she is no longer employed at Loewenberg Technologies) on file as to being trained to enter tickets into IBIS. The ticket numbers that he entered are as follows, 091910364 (original ticket number) and 091960128 second ticket (verification. You can see that we are not listed on either one of these tickets. I will include pictures of the grid that was selected by Nathan on IBIS, and I will clearly show that according to Google Earth and the address that they selected that there is a distance of 0.73 miles. In the remarks and driving section of ticket number 091960128, Nathan refers to himself as the contact person. In the EXC. Site Marking Instructions, Nathan clearly states that their white marks are in the middle of Yankton Trail Park. Refer to Pictures in attachment, you can see clearly that our pipeline runs right through the middle of Yankton Trail Park. Our complaint is that we did not receive the proper notification in order to properly mark our pipeline and this put the general

V. DAMAGE (IF ANY)

FATALITIES:

INJURIES:

LENGTH OF HOSPITALIZATION:

ESTIMATED PROPERTY DAMAGE:

NUMBER OF CUSTOMERS AFFECTED:

DAMAGED IN:

PHOTOS OF THE DAMAGED FACILITY: No

ADDITIONAL INFORMATION: I made contact with Ryan Rients on Wednesday, July 15, 2009. He said that his company was not at fault and that it is our fault or the South Dakota One Call centers fault for not having the correct information on the ticket. He said this is an ongoing problem with the utility companies not properly marking their lines. I then asked him how often this happens. He replied, "I have we have hit 4 to 5 lines, this year alone." He also stated, "It is the utility companies in this state don't know what they are doing out here, I have been doing this for years, and I know what I am doing." He stated this was not his fault. I told him I was not calling him to place blame with anyone, but I was just trying to get to the bottom of why we were not listed on the ticket and our pipeline is right in the area he has marked off. He said well he didn't know, but it wasn't his fault. He said this incident will be forgotten and go away just all the other ones have. I assured him that this one would not just fade away, and that was going to conduct a full investigation on this matter. I contacted the South Dakota One call center and spoke with Lynn Hershberger, she is the database administrator. According to South Dakota One Call they have suspended Loewenberg Technologies access to IBIS for safety reasons.

VI. PROBABLE VIOLATION

SPECIFIC STATUTE(S) OR RULE(S) THAT WAS VIOLATED: Section 49-7A-5 and Section 49-7A-8

ADDRESS/LOCATION OF PROBABLE VIOLATION: 3811 S Minnestota Avenue - No cross street is listed on the ticket

DATE/TIME OF PROBABLE VIOLATION: July 15, 2009 9:30 am

HAVE YOU DISCUSSED THE PROBABLE VIOLATION WITH THE PARTY THE ACTION IS FILED AGAINST? True

IF YES, NAME THE PARTY WITH WHOM YOU DISCUSSED THE PROBABLE VIOLATION: Ryan Rients

DESCRIPTION OF PROBABLE VIOLATION: Not properly identifying the area in which they were intending on working, which in turn did effect our company and other companies as well. Not properly notifying our company.

49-7A-5 Notification of proposed excavation. No excavator may begin any excavation without first notifying the one-call notification center of the proposed excavation. The excavator shall give notice by telephone or by other methods approved by the board pursuant to rules promulgated pursuant to chapter 1-26 to the one-call notification center at least forty-eight hours prior to the commencement of the excavation, excluding Saturdays, Sundays, and legal holidays of the state. The board may promulgate rules to reduce the forty-eight-hour interval for emergency or subsequent inquiries to the original locate request and may lengthen the forty-eight-hour interval for nonexcavation requests.

49-7A-8. Location of underground facilities--Excavators shall maintain a minimum horizontal clearance of eighteen inches between a marked underground facility and the cutting edge of any mechanical equipment. If excavation is required within eighteen inches, horizontally, the excavator shall expose the facility with hand tools or noninvasive methods approved pursuant to rule and shall protect and support the facility prior to further excavation with mechanical equipment.