

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE AMENDED) ENFORCEMENT PANEL
COMPLAINT BY CARL CARLSON) RECOMMENDATION TO
COMPANY AGAINST CENTURYLINK) THE SD ONE CALL BOARD
DBA QWEST COMMUNICATIONS)

OC11-010

On September 20, 2011, the South Dakota Public Utilities Commission received a complaint from Carl Carlson Company (herein "Carlson") against ELM Locating and Utility Services. On September 23, 2011 Carlson amended his Complaint. He withdrew the complaint against ELM and substituted Centurylink dba Qwest Communications (herein "Qwest") as the defendant.

The complaint alleges ELM, the locating contractor for Qwest, did not sufficiently and properly locate its facilities. As a result Carlson hit Qwest facilities. When Qwest remarked facilities after the hit, Carlson alleges the locate marks looked entirely different.

The Complaint goes on to discuss Qwest billing practices and the Complainants opinion regarding the proper locate safe zone. Specifically, Carlson believes the 18" window is too wide and suggests 5" is more appropriate.

On October 13, 2011 Qwest replied to the Complaint. While Qwest addresses and disputes all points raised by Carlson it specifically denies all allegations regarding its marking of facilities. It believes its facilities were marked according to ARSD 20:25:03:05.04.

On October 28, 2011, pursuant to SDCL 49-7A-22 a panel of five One Call Board members (herein "Panel") convened. The Panel met to determine whether probable cause exists to believe the violation occurred as described in the complaint.

The Panel spent significant time studying the pictures provided with the Complaint yet were unable from the pictures to determine whether Qwest failed to properly mark its facilities. The Panel did not find probable cause exists to believe a violation occurred and recommends the Board dismiss the Complaint. The Panel encourages the Complainant to take pictures of a site it does not believe are adequately located prior to excavation.

The Panel determined it does not have jurisdiction over Qwest billing practices and did not make any substantive findings regarding the same.

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 you 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.

The South Dakota One-Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A and ARSD 20:25.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile by first class mail, or by other electronic means.



Larry L. Janes, Executive Director

Date 11-01-2011

**REQUEST FOR A HEARING
COMPLAINT OC11-010**

**I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC11-010
AND REQUEST A HEARING.**

Signature – Carl V. Carlson Company

Date

**I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC11-010
AND REQUEST A HEARING.**

Signature – CenturyLink dba Qwest

Date

**YOUR REQUEST FOR A HEARING MUST BE SENT TO ALL OTHER
PARTIES INCLUDING:**

**SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
C/O SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
500 E. CAPITOL AVE.
PIERRE, SD 57501-5070**

**Failure to request a hearing, results in acceptance of the Enforcement
Committee's recommendation. In that case, the One Call Board will Order the
recommendation as the final disposition of this Complaint.**