

To: South Dakota One Call Board

From: CenturyLink-South Dakota Area Operations Manager Steve Kolbeck

Date: October 6, 2011

RE: Response to Carl V. Carlson's Complaint Docket OC11-10

**RECEIVED**  
**OCT 13 2011**  
**SOUTH DAKOTA PUBLIC**  
**UTILITIES COMMISSION**

One Call Enforcement Board Members,

This letter provides a response in the matter of OC11-10, the complaint by Carl V. Carlson against CenturyLink-South Dakota. We have reviewed Mr. Carlson's letter, investigated his allegations, and believe they are without merit. We request that the Enforcement Committee dismiss the complaint.

The pictures provided by Mr. Carlson and enclosed with this response demonstrate that ELM performed all of the duties outlined in South Dakota One Call Administrative rule 20:25:03:05.04. That rule requires as follows:

- (1) The underground facility must be marked in the most suitable manner with consideration to terrain, site conditions, type, and extent of the proposed excavation to clearly identify the existence of an underground facility for the excavator;
- (2) The marked underground facility shall clearly identify the name, abbreviation, or logo of the operator of the underground facility;
- (3) If multiple underground facilities exist, the operator shall separately mark each underground facility;

The photographs demonstrate that ELM met each of these requirements. Our facilities were prudently marked in a suitable manner for a rough grade gravel surface. Given the large locating area and loose unsettled ground conditions, ELM marked our cable clearly, named the utility, and clearly showed separation of our cables.

Mr. Carlson has the opportunity to seek further information to the extent there is any confusion about the markings. Rule 20:25:03:04 (6) provides that "[t]he excavator may request off-set marks to maintain an accurate record of the facility locations." Mr. Carlson chose not to do so here.

Several other contentions of the complaint are also without merit. In his first paragraph, Mr. Carlson contends he was billed an "exorbitant" amount for the fixing of our cable. The costs of rolling trucks and having technicians on site is very expensive. Everything in the bill is easily identified and is in line with industry standards. South Dakota One Call mandates that an excavator be held strictly liable for such costs. SDCL 49-7A-10.

Also in the first paragraph Mr. Carlson states he was required to remove sections of concrete that were placed just days before. As stated in SDCL 49-7A-12 "No excavator may conceal or attempt to conceal such damage, dislocation, or disturbance..." To suggest that a utility company would have to pay to remove obstacles put in place by the excavator is absurd. The reason for having a One Call system in place is to prevent damage. It is not to cover an excavator's liability for damage and then allow the excavator to charge a utility for materials put in place to cover the damage to a utilities' underground facilities. This could prove to be a very lucrative business for any excavator if Mr. Carlson were allowed to do this.

In the second paragraph Mr. Carlson discusses the locate being "a couple strips of paint and a few bent flags". As stated in South Dakota One Call Administrative rule 20:25:03:05.02 it is the responsibility of the excavator to preserve the markings after the underground facility has been marked. The rules also provide options to Mr. Carlson. Mr. Carlson could have requested a re-spot of the locate, at CenturyLink's expense, before he started excavation if he was not satisfied with the locate. Or, according to South Dakota One Call Administrative rule 20:25:03:09, Mr. Carlson could have requested a meeting with our contracted locator which also would have been at CenturyLink's expense. Obviously the appropriate time for Mr. Carlson to make his concerns about the locate being "thorough" were before he began to dig. Mr. Carlson complained only after he chose to ignore South Dakota One Call Administrative rule 20:25:03:05.03; which states an 18 inch horizontal exposure clearance must be maintained. This exposure clearance is also something Mr. Carlson states in his letter should only be 5 inches.

Further down in the letter Mr. Carlson discusses contractors who "pay tens of thousands of dollars every year to utilities to repair utility lines." No doubt because they refused to take into consideration a utility may have a buried cable or they simply refuse to observe the approved eighteen inch horizontal clearance exposure methods as outlined in South Dakota One Call Administrative rule 20:25:03:05.03.

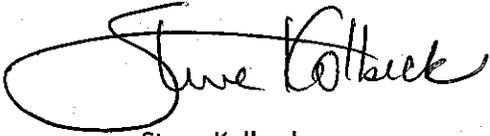
Next Mr. Carlson berates labor unions and wages in his letter. CenturyLink feels debating the state of wages and compensation for laborers is not pertinent to this matter.

Mr. Carlson concludes with a personal opinion of how utilities should bear the responsibility of locating their lines during construction; which of course CenturyLink does and did when notified by South Dakota One Call during this project, at our expense, subject to SDCL 49-7A-8. CenturyLink's responsibility equates to \$40-\$70,000 per month to locate its cables in South Dakota. We take our responsibilities concerning South Dakota One Call laws and the safety of our customers very seriously.

In conclusion CenturyLink would reiterate our request to dismiss the complaint against us. CenturyLink feels it is on the right side of the laws that protect underground facilities. We feel our locate was prudent and complete. We also feel Mr. Carlson bears the responsibility for maintaining the locate (SDAR 20:25:03:05.02), the responsibility for hand excavating within 18 inches of our cable (SDAR 20:25:03:05.03), and was afforded many options to clarify the locate at no cost to him if he felt it was not adequate. (SDCL 49-7A-13, SDAR 20:25:03:09)

Thank you for your time in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Kolbeck". The signature is fluid and cursive, with a large loop at the beginning of the first name.

Steve Kolbeck

Area Operations Manager

CenturyLink-South Dakota