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AUG 13 2012

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

**REQUEST FOR A HEARING
COMPLAINT OC12-009**

**I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC12-009
AND REQUEST A HEARING.**



Signature – Absolute Contracting Service Inc.

8/9/2012

Date

**I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC12-009
AND REQUEST A HEARING.**

Signature – South Dakota Intrastate Pipeline Co. _____
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.**

Absolute Contracting Service

August 9, 2012

668 Old Mill Road

Ball Ground, GA 30107

I would request a hearing regarding South Dakota One Call Notification Board Enforcement Panels decision regarding Complaint OC12-009, according to SDCL-49-7A-27.

Please refer to attached documentation for this hearing.

Thank you,

Jerry Zilligen (President)

Absolute Contracting Service

August 9, 2012

668 Old Mill Road
Ball Ground, GA 30107

Re: OC12-009

I would first care to let the South Dakota One Call Notification Board Enforcement Panel know that our work takes us throughout various states and makes it very difficult to be attend out of state meetings, hearings and such and ask for consideration in this matter.

On July 25, 2012 South Dakota One Call Notification Board Enforcement Panel determined that there was sufficient evidence that Absolute Contracting Service was in violation of ARSD 20:25:03:10.20 and assessed a \$ 1000.00 penalty against Absolute Contracting Service.

I disagree completely and would request South Dakota One Call Notification Board Enforcement Panel to rescind that penalty against Absolute Contracting Service for the following reasons.

First and foremost my dig ticket # 121560164 (copy attached) was accurate and active. The last paragraph stated there was a high profile utility in the area (there was a fiber optic cable across the road and there was gas main, we had to cross both utilities). Next it stated the operator may also require to be present when excavating. Finally it stated "***if not contacted, you may conduct work in a normal manner***".

My name, phone number, email and company information was also on the dig ticket. ***I was never contacted by South Dakota Intrastate Pipeline by any of those three methods of communication.***

This is a fact that South Dakota One Call Notification Board Enforcement Panel is aware of and was specifically mentioned in the hearing on July, 25, 2012. As the dig ticket affirms that the operator-South Dakota Intrastate Pipeline was notified of the locate request and yet did not contact Absolute Contracting Service nor myself as to the proper procedure for crossing their utility how am I as a contractor at fault? By the operator failing to make contact to my company nor myself I feel they are at fault not myself. I followed the instructions that were given to me on the dig ticket. The South Dakota Intrastate Pipeline Enforcement Panel decided that the violation was unintentional.

That speaks highly that the South Dakota One Call Notification Board Enforcement Panel is aware of the flaw in their ruling.

Absolute Contracting Service

August 9, 2012

668 Old Mill Road
Ball Ground, GA 30107

Re: OC12-009

Comparatively speaking on case O12-008 the contractor was clearly at fault by accident yet received half the penalty as myself.

Also on case OC12-010 the contractor was clearly at fault, the South Dakota One Call Notification Board Enforcement Panel found that it was an intentional violation, the was damage to the utility and the contractor was fined merely half of fine imposed on myself.

Clearly their appears to be a "travesty of justice" in case OC12-009.

Of the ninety four dig tickets I e-ticketed, I was never contacted by South Dakota Intrastate Pipeline!

So we hand dug very carefully and exposed the utility with human hands, not shovels!!

Compound that by the fact that South Dakota Intrastate Pipelines representative informed me of the inferior material the gas main was composed of and how fragile it was, after the fact that we had so gently exposed only the top 1/4"-1/2" of their pipe, without incident.

In my twelve plus years in underground utility construction we have never cut a gas main and our hit ratio has stayed extremely low because we are a contentious contractor and take pride in our work.

Second I do not recall there being proper signage along the pipeline warning of a "high Pressure gas main". From my twelve plus years performing excavating I know a company representative needs to be present if a high pressure gas main has to be crossed and would have contacted them well ahead of the excavation.

It is my feeling that South Dakota One Call Notification Board Enforcement Panel should overrule its decision of July 25, 2012 and rescind the penalty against Absolute Contracting Service, along with holding a hearing regarding South Dakota Intrastate Pipelines non compliance with the ending paragraph of my dig ticket # 121560164 (copy attached).

I would file a complaint regarding this issue were I able to find the proper statute that South Dakota One Call bases the final paragraph of the dig ticket aforementioned on.

Absolute Contracting Service

August 9, 2012

668 Old Mill Road
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Re: OC12-009

I would further care to state that the South Dakota One Call Notification Board Enforcement Panel might care to investigate whether any other contractors were properly notified by the complainant on the hundreds of other dig tickets for this project.

Finally as a concerned contractor I think it would be beneficial to all involved that anytime a contractor calls in a dig ticket where a known fragile high pressure gas main is in the area that the contractor be specifically warned of the inherent danger due to the inferiority of the utilities composition.

I ask this in the name of safety for all.

Thank you,

Jerry Zilligen

----- Original Message -----

Subject: South Dakota Locate Information - 121560164

From: <contractorfax@digtess.org>

Date: Mon, June 04, 2012 10:13 am

To: <jerry@absolute-contract.com>

South Dakota One Call SEQUENCE NUMBER 10 CDC = AutoEmail

Type: *** R O U T I N E ***

Transmit: 06/04/12 At: 0913

Prepared: 04-JUN-12 Time: 0910 By: Anna M

Ticket No.: 121560164

Operators Notified:

CWE=/CAM WAL ELEC.../ SDI=/*SOUTH DAKOT.../ VEN=/VENTURE COMM.../

WEB=/WEB WATER DE.../

Excavator Information:

Caller: JERRY Phone: (678) 897-8327

Excavator: ABSOLUTE CONTRACTING SERVICE, INC.

Address: 668 OLD MILL ROAD

City: BALL GROUND, GA 30107

Phone: 678-897-8327 Fax:

Email: jerry@absolute-contract.com

Contact: JERRY ZILLIGEN Phone: 678-897-8327

Alt. Contact: Phone: 770-710-6626

Location Information:

County: WALWORTH City/Village: SELBY

Map Ref: 45164099584A Grids: 36

Exc. Site Address: 0 146TH ST

Nearest Intersection: 310TH AVE

Type of Work : UNDERGROUND FIBER INSTALL

Work Being Done For: VENTURE COMMUNICATIONS

Depth: 04 FEET Explosives: N Tunnel/Bore: N

Start Date: 06/06/12 Time: 0915 Duration: 21 DAYS

Meeting Required: N Best Time to Contact: 0700 - 1700

Exc. Site (Marking Instr.): R.O.W.: Y TRSQ:

GPS Lat/Long:

Remarks and Driving Directions:

TRSQ: 121N 76W 23 SE

SITE BEGINS AT THE ABOVE INTER & EXTENDS W ON THE N SIDE OF 146TH

ST FOR APPX 1/2MI TO THE ADDRESS OF 30950 146TH ST (TOWER DR)

ALTERNATE CONTACT NAME: MARK JOHNSON

ORIGINAL FILE: ./KOR_201206040043.XML

Expires On: 6/27/2012 9:15:50 AM

* A high profile facility is in the area and a meet may be required.
The operator may also require to be present when excavating. If not
contacted, you may conduct work in a normal manner.
End Ticket