

1. Complaint Docket Number: OC13-025

2. Respondent Information

Complaint filed on behalf of (company name): First Dakota Horticulture

Contact Person: Rebecca Wek

Phone: 605-728-5182 **Ext:**

Street Address or PO Box: 46551 264th St.

City: Sioux Falls **State:** SD **Zip:** 57107

Fax: --

Email Address: fdhort@gmail.com

Date: 10/21/2013

Were you previously aware of these allegations: Yes

Provide detail including whom you spoke with: On the day of the accident, my installation crew was planting a tree by hand near where an old tree had been removed and accidentally cut through a plastic gas line with a spade. I was present at the jobsite at the time. MidAmerican Energy was notified, and they repaired the broken line on the same day. First Dakota Horticulture has paid them for their services.

3. Basic Facts

Do you dispute the alleged violation of SD One Call statute or rule occurred?: No

If yes, what specifically do you dispute?:

Do you dispute the complainant's statements regarding the intentional or unintentional nature of the alleged violation?: Yes

If yes, please explain: Complainant stated that they were "not sure" if we intended to hit the line. We had no intention of hitting the line and no expectation of any utilities being to close to the previously existing tree.

4. Excavation / Locate Information:

Was a locate requested from SD One Call?: No

If a locate was requested:

Locate ticket #:

Start date and time on ticket:

Did excavation begin before the start date / time on the ticket?: NA
Was a minimum horizontal clearance of 18 inches maintained between a marked facility and mechanical equipment?: NA
Were buried facilities exposed by hand or non-invasive equipment prior to excavation?: NA
Were facilities marked?: NA
Was the marking complete prior to the start time on the ticket?: NA
Was the excavation site pre-marked with white paint?: NA
Was the facility marked accurately (within 18 inches)?: NA
Was there reasonable care to maintain locate marks for the life of project?: NA
Did the complainant correctly describe the type of facility involved?: Yes
If not, provide detail:

5. Damages:

Did the complainant correctly describe the damages that resulted from the alleged violation?: Yes
If no, provide detail:
Were damages in public right of way or private property?: Public
Did complainant correctly describe how operator service was affected?: Yes
If no, provide detail:
Was anyone injured as a result of facility damage?: No
If yes, provide detail:
Length of hospitalization:
Were there any fatalities?: No
If yes, explain:
Other information regarding injuries or damages:

6. Statutory Violation

Do you believe the statutes listed (if any) by the complainant were violated?: Yes
Why or why not?: I did not call to have utilities marked since the new tree was being planted so close to where the old one had been. I made the wrong choice not to call, and as a result the residents, my employees, MidAmerican Energy and SD One Call have been inconvenienced.

Future Compliance:

Describe your plans and procedures to ensure compliance with SD One Call statutes and rules: Our company policy is to notify South Dakota One Call on every dig. In this situation I used my own judgment and did not call for locates. I should have had utilities marked, and I will call South Dakota One Call on every dig from now on. Our company has also discussed the issue and reminded all other crew leaders of the policy to call before every dig.

Past Violations:

Has a complaint been filed against you in the past for SD One Call violations?: Yes
If yes, when was it filed?: 07/14/2004

Other Information:

Please provide any additional information to support your position: I have since apologized to the home owner, and I sincerely apologize to South Dakota One Call and MidAmerican Energy for any inconvenience and danger this has caused.