

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT)	ENFORCEMENT PANEL
FILED BY CITY OF BIG STONE CITY, BIG)	RECOMMENDATION TO
STONE CITY, SOUTH DAKOTA,)	THE SD ONE CALL BOARD
AGAINST CENTURYLINK, SIOUX)	
FALLS, SOUTH DAKOTA, FOR AN)	OC14-004
INCIDENT OCCURRING ON JANUARY)	
31, 2014, AT 808 4TH AVE., BIG STONE)	
CITY, S.D.)	

On March 13, 2014, the South Dakota Public Utilities Commission received a complaint from The City of Big Stone City, South Dakota, against CenturyLink of Sioux Falls, South Dakota. The complaint alleges that on or about January 31, 2014, CenturyLink failed to complete an emergency locate of its facilities within the time required by South Dakota One Call law.

A copy of the complaint was sent to CenturyLink on March 14, 2014. CenturyLink responded to the Complaint on April 2, 2014. In its response, CenturyLink disputes the incident occurred and asserts that remedial measures have been taken to assure future compliance.

On August 29, 2013, 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 found sufficient evidence was presented to determine probable cause exists to believe a violation of SDCL 49-7A-8 occurred. Specifically, the Panel found CenturyLink failed to locate its facilities in the proposed excavation area within the time provided by ARSD 20:25:0:10 for the emergency locate request. The Panel found the violation to be intentional.

Pursuant to SDCL 49-7A-26 and 49-7A-19, the Panel found it proper to assess a penalty of \$5,000 for this offense. However, the Panel found it proper to conditionally suspend \$3,000 of the penalty under the following conditions:

- (i) CenturyLink shall make payment of the \$2,000 portion, which was not suspended, of the penalty within thirty days of issuance of the final SD One Call Board Order.
- (ii) CenturyLink shall attend an excavating seminar in the spring of 2015, and CenturyLink shall sign the Record of Attendance at that meeting. Should CenturyLink contract with another party to perform location of CenturyLink's facilities, a representative from that party shall attend the seminar, as well, and that party shall sign the Record of Attendance form at that meeting.

- (iii) CenturyLink shall conduct an in-house safety meeting for its employees and subcontractors with whom CenturyLink contracts to complete locates to review the One Call laws. The meeting shall be held within 30 days of the final One Call Order. Documentation shall include the printed and signed names of meeting participants, details of the material discussed, and the date and length of the meeting. Documentation shall be submitted to the Executive Director of South Dakota One Call within that 30 day period.
- (iv) CenturyLink must not be found guilty of a One Call violation within the next 12 months.

If any of the conditions are not met, the entire \$5,000 will be immediately due and owing.

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 a party 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 4-10-2014

**REQUEST FOR A HEARING
COMPLAINT OC14-004**

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC14-004 AND
REQUEST A HEARING.**

Signature – CenturyLink

Date

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC14-004 AND
REQUEST A HEARING.**

Signature – City of Big Stone City

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**