
From: donotreply@sdonecall.com[SMTP:DONOTREPLY@SDONECALL.COM]

Sent: Wednesday, May 14, 2014 4:39:18 PM

To: PUC Docket Filings

Subject: New One Call Complaint Form

Auto forwarded by a Rule

1. Action Requested By:

Complaint filed on behalf of or by: South Dakota Network dba: SDN Communications

Contact Person: Angela Kroeger

Phone: 605-978-3534 **Ext:**

Street Address or PO Box: 2900 West 10th Street

City: Sioux Falls

State: SD

Zip: 57104

Fax: 605-334-4782

Email Address: angela.kroeger@sdncommunications.com

Date: 5/14/2014

2. Action Requested Against:

Name of excavator / facility operator: First Rate Excavate

Phone: 605-331-5626 **Ext:**

Street Address Or PO Box: 1509 E 39th St N

City: Sioux Falls

State: SD

Zip: 57104

Fax: 605-331-5626

Email Address: office@firstrateexcavate.com

Is this party aware of your allegations?: Yes

Provide detail including whom you spoke with: After receiving an invoice from SDN for damage repair costs a First Rate Excavate representative called our SDN representative and indicated that the marks were off and he would not pay for the damage. SDN representative did not get the persons name.

3. Basic Facts:

Street Address / location of alleged violation: 2800 W 41st Street

City: Sioux Falls

State: SD

Date of alleged violation: 09/12/2013

Time of alleged violation: 3:15 p.m.

Describe your allegation: An employee of First Rate Excavate was digging with a backhoe and damaged SDN Communications fiber optic cable.

Do you believe the alleged violation to be intentional?: No

Why or why not?: Backhoe operator stated he had already exposed the duct by hand and knew it was there. He was cleaning underneath the fiber with a backhoe and hit the duct and pipe with the bucket. The backhoe operator accepted responsibility for the incident in conversation with an SDN representative.

4. Excavation / Locate Information:

Was a locate requested from SD One Call?: Yes

If a locate was requested:

Locate ticket #: 132530524

Start date and time on ticket: 09/12/2013 3:15 p.m.

Did the excavator wait until the start date / time on the ticket before commencing excavation?: Yes

If no, when did excavation begin (date and time)?:

Did the excavator maintain a minimum horizontal clearance of 18 inches between a marked facility and mechanical equipment?: No

Explain: The fiber optic cable was hit with the bucket of the backhoe when the operator was cleaning soil from underneath the cable.

Were buried facilities exposed by hand or non-invasive equipment prior to excavation?: Yes

Were facilities marked?: Yes

Was the marking complete prior to the start time on the ticket?: Yes

Did the excavator pre-mark with white paint?: NA

Was the facility marked accurately (within 18 inches)?: Yes

Did the excavator use reasonable care to maintain locate marks for the life of project?: Yes

Type of facility involved: Fiber Optic Cable

Operator of facility (if known): South Dakota Network dba: SDN Communications

Operator address (Street or PO Box): 2900 West 10th St

City: Sioux Falls

State: SD

Zip: 57104

Phone: 605-978-3534

Depth of Cover: 36 inches

Pressure: No

Voltage: No

of cable pairs: 96 count fiber

5. Damages

Was the facility damaged?: Yes

If yes, provide detail and an estimate of damage: The damaged 96 ct fiber was replaced with a 12 to save on costs. The cost would have been in the area of \$12,000 had we replaced with 96 ct fiber. See attached invoice and supporting detail.

Were damages on public right of way or private property?: Public

Was anyone injured as a result of facility damage?: No

If yes, provide detail: n/a

Length of hospitalization:

Were there fatalities?: No

If yes, provide detail: n/a

Was operator service affected?: No

If yes, provide detail (how many customers for how long): n/a

Other information regarding injuries or damages: n/a

6. Statutory Violation

Specific statute(s) or rule(s) you believe were violated: SDCL 49-7A-8 SDCL 49-7A-10

Other information to support your position: First Rate Excavate claims the markings were not consistent with statute, however, we dispute that. The locator supervisor and SDN employee were on site and both dispute any claim that the marks were not consistent with statutory requirements. Regardless, the contractor had already excavated the spot and hand dug to expose the conduit. The excavator backhoe operator admitted to SDN it was his fault and that he accidentally hit the conduit 96 ct fiber and damaged it with his bucket of his backhoe when he was attempting to clean underneath the duct. Excavator has no valid claim or excuse since the duct was in plain sight and damage was done by the bucket of the backhoe not on reliance of any markings done by the locator.