

South Dakota

**Know what's below.
Call before you dig.**



June 6, 2016

Mr. Kevin Ancell
CenturyLink
125 S. Dakota Ave
Sioux Falls, South Dakota 57104

Mr. Vern Thorson
City of Fort Pierre
PO Box 700
Fort Pierre, South Dakota, 57532

Re: OC16-003 City of Fort Pierre against CenturyLink.

Under the authority granted by SDCL-49-7A-22, the Enforcement Panel of the South Dakota One Call Notification Board met on May 31, 2016 to determine whether there is probable cause to believe a One Call violation occurred in Complaint Docket OC16-003. The Enforcement Panel's findings are enclosed. You may request a hearing according to SDCL-49-7A-27, if you disagree with the Enforcement Panel findings. If you do request a hearing you must be represented by legal counsel at the time you present your case to the One Call Board.

Failure to respond to this notice or request a hearing is considered acceptance of the Enforcement Panel Recommendation. In that case, the Recommendation will be Ordered by the SD One Call Notification Board and your right to hearing is waived.

If you choose to request a hearing you must return the signed and dated form prior to the close of business on June 27, 2016:

South Dakota One Call Notification Board
c/o Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

Be aware, any future violations of any One Call statute or rule may be subject to additional penalties up to \$5,000 for each subsequent violation that occurs within twelve months of the initial violation. If you

have procedural questions relative to this complaint, please contact me at 605-339-0529 or by email at exedir@sdonecall.com . Do Not Contact any members of the South Dakota One Call Notification Board to discuss this complaint since members may be involved in a hearing if one is requested.



Larry L. Janes
Executive Director
South Dakota One Call

**BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD**

**IN THE MATTER OF THE COMPLAINT FILED BY)
THE CITY OF FORT PIERRE, SOUTH DAKOTA,)
AGAINST CENTURYLINK OF SIOUX FALLS,)
SOUTH DAKOTA, FOR AN INCIDENT)
OCCURRING ON DECEMBER 07, 2015, AT THE)
INTERSECTION OF CASEY TIBBS ST AND E)
CEDAR AVE IN FORT PIERRE, SOUTH DAKOTA)**

**ENFORCEMENT PANEL
RECOMMENDATION TO THE SD
ONE CALL BOARD**

OC16-003

On February 18, 2016, the South Dakota Public Utilities Commission received a complaint from the City of Ft. Pierre against CenturyLink (Respondent). The complaint alleges that on or about December 7, 2015, Respondent failed to locate it facilities within the time required by South Dakota One Call law.

A copy of the complaint was sent to Respondent on February 18, 2016. Respondent did respond to the Notice of Complaint by the March 9, 2016 deadline. Respondent filed an answer to the Complaint on March 4, 2016. In its answer, Respondent did not contest the alleged violation.

On May 31, 2016, pursuant to SDCL 49-7A-22 a panel of three One Call Board members (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 and 49-7A-9 occurred. Specifically, the Panel found Respondent failed to locate its facilities in the proposed excavation area within 4 hours after receipt of the notice. The violation did not result in damage to any facility. The Panel did find the violation to be intentional.

The Panel found it proper to assess a \$2000.00 penalty for this offense. The Panel found it proper to suspend \$0.00 of the penalty under the following condition:

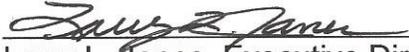
- i. Respondent shall make payment of the \$2,000.00 unsuspended portion of the penalty within thirty days of issuance of the final SD One Call Board Order.
- ii. Payment shall be remitted to: South Dakota Public Utilities Commission, 500 E. Capitol Ave., Pierre, SD 57501.

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 June 6, 2016

**REQUEST FOR A HEARING
COMPLAINT OC16-003**

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC16-003 AND
REQUEST A HEARING.**

Signature – CenturyLink

Date

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC16-003 AND
REQUEST A HEARING.**

Signature – City of Fort Pierre

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 will result in acceptance of the Enforcement Panel's
Recommendation by the South Dakota One Call Board. The Board will then
Order the Recommendation as the final disposition of this Complaint.**