

South Dakota

Know what's below.
Call before you dig.



June 6, 2022

Mr. Joe Muth
Lumen Technologies
312 S Cliff Ave
Sioux Falls, South Dakota 57103

Mr. Robert Roth
Runge Enterprises, Inc.
PO Box 86490
Sioux Falls, South Dakota 57718

Re: OC22-002 Lumen Technologies vs. Runge Enterprises, Inc.

Under the authority granted by SDCL-49-7A-22, the Enforcement Panel of the South Dakota One Call Notification Board met on May 10, 2022 to determine whether there is probable cause to believe a One Call violation occurred in Complaint Docket OC22-002. 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 South Dakota 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, 2022.

South Dakota One Call Notification Board
PO Box 187
Rapid City, South Dakota 57709

Be aware, any future violations of any One Call statute or rule may be subject to additional penalties up to \$10,000 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 605-863-0951 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.

Cody M. Gregg

Cody M. Gregg
Deputy Director
South Dakota One Call

**REQUEST FOR A HEARING
COMPLAINT OC22-002**

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC22-002 AND
REQUEST A HEARING.**

Signature – Lumen Technologies

Date

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC22-002 AND
REQUEST A HEARING.**

Signature – Runge Enterprises, Inc.

Date

**YOUR REQUEST FOR A HEARING MUST BE SENT TO ALL OTHER
PARTIES INCLUDING:**

**SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
PO BOX 187
RAPID CITY, SOUTH DAKOTA 57709**

**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.**

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT
FILED BY LUMEN TECHNOLOGIES
AGAINST RUNGE ENTERPRISES, INC.
FOR AN INCIDENT OCCURRING ON
APRIL 7, 2022 AT 4600-4700 W 41ST
STREET, SIOUX FALLS, SD.

**ENFORCEMENT PANEL
RECOMMENDATION TO THE SOUTH
DAKOTA ONE CALL BOARD**

OC22-002

On April 8, 2022, the South Dakota One Call Notification Board received a Complaint filed by Lumen Technologies (herein "Claimant") against Runge Enterprises, Inc., (herein "Respondent") for an incident occurring on April 7, 2022, at 4600-4700 W 41st Street, Sioux Falls, SD. The Complaint alleges a violation of SDCL 49-7A-12 when Respondent damaged utility line of Claimant and did not call 811 regarding the line. Claimant also identified a 1.25" conduit that was damaged as well.

A copy of the Complaint was sent to Respondent on April 12, 2022. The deadline to respond was May 5, 2022. Respondent answered the Complaint on May 2, 2022. Respondent does not dispute that a violation of South Dakota One Call law occurred but does dispute the intentionality of damage. Respondent alleges failing to call 811 to report damage.

On May 10, 2022, the Enforcement Panel (herein "Panel") convened pursuant to the authority present in SDCL 49-7A. The Panel does not find probable cause that a violation of SDCL 49-7A-12 occurred on the basis that Respondent believed utilities to be dead and out of service. Therefore, the Panel recommends the Complaint be dismissed.

The Panel recommends the South Dakota One Call Notification 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 (20) 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.