

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.	ORDER ADOPTING ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD OC22-002
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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.

On June 6, 2022, the Panel’s recommendation was sent to the parties to this action. The parties did not request an evidentiary hearing. The Board reviewed the Panel’s recommendations at its August 16, 2022 meeting pursuant to SDCL 49-7A-27. The Panel’s recommendation was approved by the Board. It is now, therefore:

ORDERED, that the South Dakota One Call Board adopts the recommendations of the Panel as a final resolution of this Complaint. The Panel's findings are attached hereto and shall be considered fully incorporated herein.

The South Dakota One Call Notification Board has jurisdiction over this matter pursuant to SDCL 1-26 and 49-7A and ARSD Article 20:25, specifically SDCL 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, and 49-7A-26.

Dated this 22nd day of September, 2022.

BY ORDER OF THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD:

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