

Minutes

(Draft / Unapproved Circulated December 10, 2020)

South Dakota One Call Notification Board

November 17, 2020 – 9:00 AM Central Time / 8:00 AM Mountain Time

1. Chairman Fay Jandreau called the meeting to order at 9:00AM CT. The meeting was held via Zoom.

Board Members in attendance: Chairman, Fay Jandreau, Representing Telecommunication Companies Offering Local Exchange Service to Less Than 50, 000 Customers; Dan Kaiser, Representing Telecommunication Companies Offering Local Exchange Service to More Than 50,000 Customers; Steve Mohr, Representing Community Antenna Television Systems; Bleau LaFave, Representing Investor-Owned Natural Gas Utilities; Kevin Kouba, Representing Investor-Owned Electric Utilities; Lloyd Rave, Representing Rural Water Systems; Mark Meier, Representing Municipalities; Loren Beld, Representing Excavation Contractors.

Board Members unable to attend: Vice Chairman Doug Larson, Representing Interstate Carriers of Gas or Petroleum; Jim Scull, Representing Excavation Contractors; Ed Anderson, Representing Rural Electric Cooperatives.

Also in Attendance: Brett Koenecke, Legal Counsel; Cody Honeywell, Legal Counsel; Executive Director, Larry Janes; Deputy Director, Codi Gregg.

Guests in Attendance: Scott Sasajima, Texas 811; Rich Ferguson, USIC; Callie Iverson, Take Charge Bookkeeping; Roxanne Zurn, Xcel Energy.

Larry Janes introduced and welcomed Cody Honeywell as a new member of the MayAdam legal team to the Board.

2. Dan Kaiser made to the motion to approve the August 27, 2020 Board Meeting Minutes as printed. Lloyd Rave seconded the motion. **Motion carried unanimously.**
3. The Board reviewed and approved the Financial Summary. Lloyd Rave made the motion to approve the financial report as provided. Mark Meier seconded the motion. **Motion carried unanimously.**
4. Operations – South Dakota 811 and Texas811 Performance Results

- a. Ticket volume history was discussed. 2020 will be a record year for both incoming and outgoing tickets.

- b. Ratio Outgoing to Incoming Tickets averaged 4.96 meaning for every one incoming locate request, roughly 5 utilities are contacted with locate tickets to dispatch.

- c. Electronic Ticketing was reviewed. Homeowner submitted tickets doubled from 2019 totals. 62% of all locate requests are submitted online. This percentage stays pretty consistent. The year to date total of tickets submitted online has already exceeded the 2019 history.

- d. Secondary Links were reviewed and we continue to see an increase. This report shows tickets going to more than one contact, such as one company / multiple email addresses.

- e. Dispatched Tickets by Type was reviewed. There were 21,134 high profile notifications dispatched in 2020 to date. Emergency tickets have seen an increase. Damage tickets still trend at three to one, for every three tickets with a previous locate ticket one did not have a previous locate.

- f. Speed of Answer was discussed and is within contract limits with the South Dakota 811 Center.

- g. Damages with Ticket #'s vs. without Ticket #'s was reviewed above.

- h. Gas Damages – Monthly & Year to Year Comparison was reviewed. To date 134 gas damages have been reported to the 811 Center.

Executive Director Report Items:

- 5. Board Effect Training was held for the Board of Directors. The Board portal is accessible for all Board Members. Questions can be directed to Codi Gregg.

- 6. The agreement with MayAdam law firm is set to expire on January 3, 2021. Discussion was held by the Board regarding any conditional changes, none were mentioned. May Adam did not request any changes to the agreement. Lloyd Rave made the motion to continue the agreement, Dan Kaiser seconded the motion. **Motion carried unanimously upon a roll call vote.**

7. The contract with Take Charge Bookkeeping, LLC, expires February 14, 2021. The Board asked if any changes needed to be addressed by the Board or Callie Iverson. Per both parties agreed that no changes are needed. Mark Meier made the motion to continue the contract as signed. Steve Mohr seconded the motion. **Motion carried unanimously upon a roll call vote.**

8. The Board reviewed statistics on damage reductions. South Dakota One Call is continually looking to reduce underground facility damages and provide education on the dangers of damages. Larry Janes mentioned that Fay Jandreau had suggested hiring a third party to evaluate South Dakota One Call and its policies and practices. The Board held an extensive discussion on benefits on this process. Kevin Kouba stated this would be a good move to better understand all sides of a damage, from locators, utilities, excavators and One Call. Fay Jandreau agreed. Dan Kaiser made the motion to recruit a third party to evaluate South Dakota One Call. Kevin Kouba seconded. **Motion carried unanimously.**

9. The annual Legislative Breakfast was scheduled for February 17, 2021 at 7:00 AM to 10:30 AM. With the uncertainty of COVID-19 and scheduling events, the Board of Directors chose to cancel the event for 2021. Lloyd Rave made the motion, and Steve Mohr seconded the motion. **Motion carried, with Dan Kaiser opposing the cancellation.**

10. Recently, there has been a lot of confusion regarding complaints and responses filed with South Dakota One Call and whether 911 was contacted as stated in 49-7A-12, when a release of gas or toxic materials occurs. Both the complaint form and the response ask for the event report to be filed as documentation. This has not been happening. If there is a question on this issue going forward, the Executive Director or Deputy Director will request that information before moving the complaint to the Enforcement Panel. This document should be provided, as it is a required document. No action was taken, but will be addressed further if the issue continues.

11. Does the Board wish to clarify the discussion on the following items:

a. 49-7A-1 (4) (b) Grading vs. milling – What are the differences? The issue is that a locate ticket is not required for grading if it does not extend more than 18” below the finished roadway, even though traffic signal wires are often imbedded in the asphalt. Should there be a different classification for milling? There was no consensus to suggest taking any action.

b. 49-7A-18 and 49-7A-19 Penalties Does within 12 months of the violation mean violation or issuance of Board Order? The Board of Directors’ consensus was the twelve months started the date the order was signed.

c. Should the Enforcement Panel consider the previous payment owed when considering a new penalty amount, or any new penalty be considered on its own merits? The Board of Directors agreed each complaint should be reviewed on its own merits. Suspended penalties within the twelve months will be collected by the Executive Director and Deputy Director, and should not be considered in penalties assessed. As stated by Steve Mohr, the Panel is looking to change a habit, a second violation should carry a higher penalty.

12. The Enforcement Panel of the South Dakota One Call Board met on the following Complaints and issued Recommendations. Lloyd Rave made the motion to accept the Panel's Recommendations and to accept the Offers of Resolution as accepted by the Defendants. Dan Kaiser seconded the motion. **Motion carried. Steve Mohr abstained from OC20-041, Dan Kaiser abstained from OC20-043.**

OC20 -- 037 – In the Matter of the Complaint Filed by Montana Dakota Utilities, Rapid City, SD against Heavy Constructors, Rapid City, SD, for an incident occurring on June 24, 2020 at E Mall Drive, Box Elder, SD.

OC20 – 038 -- In the Matter of the Complaint Filed by Montana Dakota Utilities, Rapid City, SD against CK Construction, Black Hawk, SD, for an incident occurring on June 24, 2020 at 3037 Elderberry Blvd., Rapid City, SD.

OC20 – 039 – In the Matter of the Complaint Filed by Jesse Tippmann / Groundbreaking Construction, LLC., Piedmont, SD against Montana Dakota Utilities, Rapid City, SD, for an incident occurring on July 1, 2020 at 4904 Breckenridge Court, Rapid City, SD.

OC20-040 - In the Matter of the Complaint filed by Roger French (French) Brookings, South Dakota against Zacharias Construction (Zacharias) Hartford, South Dakota for an incident occurring in August, 2019 at 4th Avenue and South Roberts Street in Humboldt, South Dakota.

OC20-041 -- In the Matter of the Complaint filed by Roger French (French) Brookings, South Dakota against Prunty Construction (Prunty) Brookings, South Dakota for an incident occurring in August, 2019 at 4th Avenue and South Roberts Street in Humboldt, South Dakota.

OC20-042 -- In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against GTI Companies, (GTI) Deadwood, South Dakota for an incident occurring on July 1, 2020 at Summerset Drive and Sunny Hill Circle in Rapid City, South Dakota.

OC20-043 -- In the Matter of the Complaint Filed by CenturyLink (CenturyLink) Rapid City, South Dakota against Oftedal Construction (Oftedal) Casper, Wyoming for an incident occurring on July 11, 2020 at Sheridan Lake Road in Rapid City, South Dakota.

OC20-045 - In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against JMD Excavating, (JMD) Black Hawk, South Dakota for an incident occurring on July 15, 2020 at 1301 Woodlawn, Rapid City, South Dakota.

OC20-047 In the Matter of the Complaint Filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Mossrock Landscaping (Mossrock) Custer, South Dakota for an incident occurring on July 22, 2020 at 1625 Lando Lane, Rapid City, South Dakota.

OC20-048 In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Rapid Construction (Rapid), Rapid City, South Dakota for an incident occurring on July 20, 2020 at 5500 Elm Street, Black Hawk, South Dakota.

OC20-049 In the Matter of the Complaint filed by RW Contracting (RW) Brookings, South Dakota against City of White (White) White, South Dakota for an incident occurring on July 29 2020 at 104 E 4th Street, White, South Dakota.

OC20-050 - In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Dowden Creative Construction (Dowden) Sturgis, South Dakota for an incident occurring on July 29, 2020 at 1724 Russell Street in Spearfish, South Dakota.

OC20-051 - In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Toby Karn (Karn) Rapid City, South Dakota for an incident occurring on August 2, 2020 at 3117 Conservation Way, Rapid City, South Dakota.

OC20-052 In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Legacy Enterprises, Inc. (Legacy) Spearfish, South Dakota for an incident occurring on July 30, 2020 at 21268 Ruby's Way in Lead, South Dakota.

OC20-053 In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Lind Exco, Inc. (Lind), Rapid City, South Dakota for an incident occurring on August 4, 2020 at 0 Flormann Street, Rapid City, South Dakota.

OC20-054 In the Matter of the Complaint Filed by Montana Dakota Utilities, Rapid City, SD against Riley Homes, Spearfish, SD for an incident occurring on August 12, 2020 at 671 South Street, Whitewood, SD.

OC20-055 In the Matter of the Complaint Filed by Montana Dakota Utilities, Rapid City, SD against JMD Excavating, Black Hawk, SD for an incident occurring on August 12, 2020 at 0 Downing Street, Rapid City, SD.

OC20-056 In the Matter of the Complaint Filed by Montana Dakota Utilities, Rapid City, SD against CE Landscapes, Rapid City, SD for an incident occurring on August 20, 2020 at 650 Enchanted Pines Dr, Rapid City, SD.

OC20-057 In the Matter of the Complaint Filed by Montana Dakota Utilities, Rapid City, SD against Oftedal Construction, Casper, WY for an incident occurring on August 21, 2020 at Sheridan Lake Road and Spring Canyon Trail, Rapid City, SD.

The Respondents in the following Complaints accepted an Offer of Resolution.

OC20-078 – In the Matter of the Complaint Filed by Montana Dakota Utilities, Rapid City, SD against Robinson Builders for an incident occurring at 1710 St Joe Street in Spearfish on October 6, 2020.

OC20 – 080 – In the Matter of the Complaint Filed by Montana Dakota Utilities, Rapid City, SD against Grangaard Construction, Watertown, SD for an incident occurring on October 13, 2020 at Whitewood Valley Road in Whitewood, SD.

OC20 – 081 – In the Matter of the Complaint Filed by Montana Dakota Utilities, Rapid City, SD against Savvy Designs, Inc., Box Elder, SD for an incident occurring on October 14, 2020 at 649 Liberty Park Drive in Box Elder, SD.

The following Complaints were dismissed for inconsistent, incomplete, or incorrect information. Complainant was advised they may re-file:

OC20 -036 -- In the Matter of the Complaint Filed by Montana Dakota Utilities, Mobridge, SD against Midwest Construction, Selby, SD, for an incident occurring on June 18, 2020 at 209 North Deadwood Street, Ft Pierre, SD. This complaint was not refiled.

OC20 – 044 – In the Matter of the Complaint Filed by Montana Dakota Utilities, Rapid City, SD against Nelson Construction, Rapid City, SD, for an incident occurring on July 9, 2020 at 0 Windriver Road, Box Elder, SD. This complaint was refiled, OC20-046.

OC20 – 046 – In the Matter of the Complaint Filed by Montana Dakota Utilities, Rapid City, SD against Nelsen Construction, Rapid City, SD, for an incident occurring on July 9, 2020 at 0 Windriver Road, Box Elder, SD. This complaint was not refiled.

OC20 – 062 – In the Matter of the Complaint Filed by Montana Dakota Utilities, Rapid City, SD against F16 Services, Lawrence, SD for an incident occurring on August 29, 2020 at 20898 Maitland Road, Deadwood, SD. This complaint was not refiled.

OC20 – 064 – In the Matter of the Complaint Filed by Askland Ditching, Rapid City, SD against Montana Dakota Utilities, Rapid City, SD for an incident occurring on September 14, 2020 at 3402 Ivy Avenue, Rapid City, SD. This complaint was refiled, OC20-067.

OC20 – 075 – In the Matter of the Complaint Filed by Magellan Midstream Partners, LLC., Tulsa, OK against Springman Tiling, Worthington, MN for an incident occurring on June 17, 2020 at 24675 484th Avenue, Sherman, SD. This complaint was not refiled.

13. Discussion Items:

- a. Positive Response had at least seventy users signed up, thirty-four of those are facility operators. We do expect this gain more traction. Excavators and operators were contacted via email several times in 2020. South Dakota One Call will not make this mandatory at this time but will continue to send out monthly notification emails on the process and how to sign up for this.
- b. The website should be available around the first of the year. It will not be moved to a live site until testing has been completed. South Dakota One Call is looking to have a List of Private Facility locators, disclaimer to be included. The information that will be requested from private locators was reviewed. This list will be a living list and updated as needed.
- c. Enforcement Collections were reviewed. We have a higher number of defendants not meeting the requirements as stated in the Board Order. This is leading to further action being taken by the Executive Director and Deputy Director. Defendants who have not met the requirements within the time frame are sent a thirty-day demand for payment, with a deadline. If the penalty payment is not received in that time frame, May Adam files a Summons for Judgement against the defendant. The Executive Director and Deputy Director will continue to update the Board on Collection activity.
- d. Potential law changes were discussed, including the removal of flags after excavation work is completed. Active construction needs to be considered and where the responsibility will lay. Is this an enforceable action, does the Board want to see this as enforceable? Verbiage was proposed and will be reviewed again prior to the start of the legislative session.
- e. Discussions are continuing with South Dakota Pipeline, OSHA, and the AGC regarding offering on-line South Dakota 811 Certification program to excavators and operators. OSHA has suggested a formal alliance between them and South Dakota 811. The alliance was reviewed. Fay Jandreau would like to clarify the language to protect South Dakota 811 where the organization is not called to testify in any OSHA cases. The alliance will be reviewed with OSHA, Larry Janes, Fay Jandreau, and Codi Gregg in December and brought before the Board of Directors again.
- f. In order to facilitate safe meetings during this time of COVID-19, Damage Prevention Meetings will be held online for 2021. The schedule will be established, mailed, emailed, and published in January, 2021.

- g. Larry Janes provided a Scholarships update. South Dakota One Call has been working with each South Dakota Technical Institute to locate suitable industry partners to offer scholarships to students in trades who will be involved in excavation activities, such as heavy equipment, construction, electrical, plumbing, etc. South Dakota 811 scholarships were awarded for the first time with the help of Kyburz-Carlson Construction, Aberdeen, SD and Scull Construction, Rapid City, SD along with the Build Dakota Scholarship Program. Part of the scholarship arrangement is the student stays in state for three years. Scholarships are awarded based on financial need with an industry partner selecting the student or the student being sponsored. This program is being funded through penalties collected through the Enforcement Panel and Board Orders.
 - h. The Board of Directors discussed that a city is charging excavators when a damage occurs and there is no call to 811 or 911. This was a municipal decision, and does not affect South Dakota One Call. Because the documentation does not state this action was requested on behalf of South Dakota One Call, the Board saw no reason to take action.
 - i. No further discussion items were brought before the Board of Directors.
- 14.** Public Comment was offered, none taken.
- 15.** Dan Kaiser made the motion to adjourn and reconvene at 1 PM Central Time via Zoom for an Evidentiary Hearing, In the Matter of OC20-031, before the Office of Hearing Examiners, OHE 20-01. Lloyd Rave seconded the motion. **Motion carried unanimously upon a roll call vote.**

ONE CALL BOARD MEETING SCHEDULE:

Board Meeting Schedule:

Next Board Meeting is scheduled for February 16, 2020 via ZOOM.

Future Board Meeting Dates: To Be Determined.

ONE CALL BOARD ENFORCEMENT PANEL SCHEDULE

December 17, 2020 at 2PM CT / 1PM MT.

ANNOUNCEMENTS:

Texas811 Summit, February 8 - 10, 2021

Common Ground Alliance, Orlando, FL., March 2 – 5, 2021