

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT  
FILED BY LL & SONS INC,  
WATERTOWN, SD AGAINST  
MIDCONTINENT COMMUNICATIONS,  
SIOUX FALLS, SD FOR AN INCIDENT  
OCCURRING ON OCTOBER 19, 2023 AT  
1096 S LAKE DRIVE IN WATERTOWN,  
SD.

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

OC24-004

On January 15, 2024, the South Dakota One Call Notification Board received a Complaint filed by LL & Sons, Inc., (herein “Claimant”) against Midcontinent Communications (herein “Respondent”) for an incident occurring on October 19, 2023, at 1096 S Lake Drive in Watertown, SD. The Complaint alleges a violation of SDCL 49-7A-8 when Respondent marked line 30” away from actual line. Claimant alleges ground was hard and rocky, and they spent most of the day looking. Claimant also alleges that Respondent’s employees were very hostile and hard to work with when they called for assistance in locating.

A copy of the Complaint was sent to Respondent on March 28, 2024. The deadline to respond was April 22, 2024. Respondent answered the Complaint on April 3, 2024. Respondent does dispute that a violation of South Dakota One Call law occurred and the unintentional nature of the allegation. Respondent alleges Claimant’s photos do not show Respondent’s markings inaccurate and that they measure the vertical distance rather than horizontal distance.

On May 21, 2024, 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-8 occurred. Therefore, the Panel recommends the Complaint be dismissed pursuant to SDCL 49-7A-13.

On June 28, 2024 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 July 23, 2024 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 20:25, specifically SDCL 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, and 49-7A-26.

Dated this 8<sup>th</sup> day of August, 2024.

BY ORDER OF THE SOUTH DAKOTA ONE  
CALL NOTIFICATION BOARD:

A handwritten signature in black ink, appearing to read "Mark Meier", written over a horizontal line.

Mark Meier, Chairman