

PLEASE TYPE OR PRINT CLEARLY

EL96-013

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

RECEIVED

COMPLAINT

Complainant(s): (The party filing the complaint)		Respondent(s): (The person or Company complained against)	
Name	Arnold Schurr	Contact Person	Montana Dakota Utilities
Address	341-71 131 st ST	Company	
City, State, Zip	Reserve SD 57471	Address	PO Box 280
Work Phone	605-287-4333-4336	City, State, Zip	Madridge SD 57601
Home Phone	605-287-4282	Work Phone	605-845-3116
Cellular Phone		Cellular Phone	
Fax		Fax	

If the Complainant is represented by an attorney, please list the attorney's name, address, telephone number and fax number below:
If Complainant is not represented by an attorney, please leave blank:

The facts giving rise to my complaint:

See attachments

NOTE: Please attach additional pages, if necessary, to explain your situation. Also enclose copies of any bills or other documents which may pertain to your complaint.

RESOLUTION REQUEST

I ask that the Public Utilities Commission grant the following relief. (What do you think the Commission should do to solve this problem?)

We would like them to maintain the 18' clearance on all public roads. We would like our money back from MDU. We would like Midcontinent Cable Company to comply with the 18' law. Also would like the bill with meter removed.

NOTE: Please attach any additional pages, if necessary.

VERIFICATION

Signature must be witnessed by a notary public.

Arnold Schurr

6-11-96

Complainant's Signature

Date

State of South Dakota)
County of Hughes)SS

On this 11th day of June, 1996, before me personally came and appeared Arnold Schurr known to me to be the individual described herein and who executed the foregoing instrument, and who duly acknowledged to me that he/she executed same for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Signature of Notary Public

CAMRON HOSECK
Notary Public
My Commission Expires Mar. 15, 1997

(SEAL)

My commission expires: _____

ARNOLD SCHURR
34671 129TH ST
ROSCOE SD 57471-9727

JUNE 11, 1996

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
PIERRE SD 57501

DEAR PUC:

ON OR ABOUT AUGUST 25, 1995, ONE OF OUR TRACTORS PULLING A CHISEL PLOW MOVED THROUGH ROSCOE ON MAIN STREET, WHICH IS STATE HIGHWAY #247; HOWEVER, THE RAILROAD WAS INSTALLING A NEW CROSSING AND HAD THE HIGHWAY BLOCKED FOR ABOUT THREE DAYS. THEY DETOURED THE TRAFFIC ONE BLOCK EAST TO ANDREW STREET, WHICH IS ROSCOE'S ONLY OTHER RAILROAD CROSSING. OUR HIRED MAN HOOKED A CABLE TV WIRE AT THIS ALTERNATE CROSSING AND BROKE IT BEFORE HE GOT STOPPED.

THIS TV CABLE IS QUITE STRONG AND, WHEN IT BROKE, THE MDU ELECTRIC POWER POLES THAT IT WAS FASTENED TO EVIDENTLY SHOOK ENOUGH TO BREAK A STREET LIGHT, WHICH COST \$232.12 TO REPAIR. EVIDENTLY THE POLES WERE ALSO DAMAGED, AS WE GOT AN ADDITIONAL BILL TO REPAIR THE POLES FOR \$117.16, MAKING A TOTAL OF \$349.28.

WHEN WE DIDN'T PAY MDU'S BILL, BECAUSE WE DIDN'T THINK WE OWED IT, RATHER THAN GO THROUGH SOME FORM OF ARBITRATION, THEY SENT A DISCONNECT NOTICE TO OUR SHOP OF WHICH I AM INDIRECTLY A PART OWNER. SINCE OUR SHOP CANNOT BE WITHOUT ELECTRICITY, WE PAID THE BILL PLUS \$10.59 OF LATE PAYMENT CHARGES.

MIDCONTINENT CABLE COMPANY SENT US A BILL FOR \$571.28, WHICH AS OF THIS WRITING HAS NOT BEEN PAID. THEY DID; HOWEVER, SEND US SOME FORM OF ELECTRIC CODE, CLAIMING THAT THEIR WIRES ONLY HAVE TO HAVE 15.5 FEET OF CLEARANCE ABOVE THE ROAD.

NONE OF OUR MACHINERY, TO MY KNOWLEDGE, IS TALLER THAN 17 FEET, AND WE HAVE HAD NO TROUBLE HOOKING WIRES IN RECENT YEARS. THE TWO EXCEPTIONS THAT CAME TO MIND, BOTH OCCURRED DUE TO SAGGING CABLES THAT ONCE UPON A TIME HELD CHRISTMAS DECORATIONS, AND THE PEOPLE USING THEM HAD NO EASEMENT FROM THE POWER COMPANY.

IN THIS CASE, I THINK IT IS VERY DANGEROUS TO ALLOW SOMEONE TO HANG ONE-FOURTH INCH HIGH-STRENGTH CABLE, WHICH SUPPORTS THE TV CABLE ACROSS PUBLIC HIGHWAYS, AND FASTEN THEM TO ELECTRIC POLES WHICH AT A HIGHER LEVEL HOLD VERY DANGEROUS EQUIPMENT. ON A PREVIOUS OCCASION ABOUT 8 YEARS AGO, WE HOOKED A CABLE TV WIRE NEAR HERE. IT BROKE A POLE AND HAD HOT WIRES WITH VERY LITTLE INSULATION ON THEM LAYING ALL OVER THE STREET. LUCKILY, NO ONE WAS INJURED. THE MAYOR HELPED US SET UP BARRIERS AND THE POWER COMPANY RESPONDED SOON AND REPAIRED THE DAMAGE.

I DON'T RECALL IF WE HAD TO PAY ANY DAMAGES, BUT IF WE DID IT WOULD HAVE BEEN A SMALL AMOUNT; HOWEVER, THEY DID RAISE THE WIRES AND THE CABLE, WE HAVEN'T HAD ANY MORE PROBLEMS AT THIS LOCATION.

MANY TIMES THESE LOW CABLES GET STRETCHED FROM EQUIPMENT CATCHING ON THEM AND GETTING STOPPED SOON ENOUGH. IT IS POSSIBLE THAT THIS IS THE CASE IN THIS INCIDENT, AS A MAN WHO LIVES ON THAT INTERSECTION TOLD US THAT THE CABLE WAS SAGGING FOR QUITE SOME TIME.

I BELIEVE IN THE INTEREST OF PUBLIC SAFETY AND COMMON SENSE, NO WIRES OVER PUBLIC ROADS SHOULD BE LESS THAN 18 FEET FROM THE ROAD SURFACE, ESPECIALLY LINES FASTENED TO ELECTRIC POLES.

THANK YOU FOR YOUR CONSIDERATION OF THIS MATTER. WE WOULD APPRECIATE ANY HELP YOU CAN GIVE US.

SINCERELY,

ARNOLD SCHURR

ENCL: COPY OF LETTERS
COPY OF BILLS
COPY OF STATEMENT



Egger Steel Company

909 SOUTH SEVENTH AVENUE • P.O. DRAWER E
SIOUX FALLS, SOUTH DAKOTA 57101
TELEPHONE: 605/336-2490
FAX: 605/332-3023



SERVICE
CENTER

Dec 5, 1995

To Whom it may concern:

*The cable TV line that Richard
Chirulow supposedly took down had
a big snag in it every since I have
lived at my present address, 2017 N. Ordway
Roscoe, S.D.*

*John
D. May*

Gerd Rohwedder

MONTANA-DAKOTA UTILITIES CO.BOX 280
MOBRIDGE

57601

ACCOUNT NUMBER
566 11 010 0700 2
BILLING MONTH
DECEMBER

**JUST TO REMIND YOU**OUR RECORDS SHOW THAT WE HAVE NOT RECEIVED A RECENT PAYMENT
FROM YOU ON YOUR OTHER SERVICES ACCOUNT.IN THE EVENT THAT YOUR PAYMENT HAS BEEN OVERLOOKED WE WOULD
APPRECIATE THE ACCOUNT BEING BROUGHT CURRENT BEFORE YOUR
NEXT BILLING DATESCHURR'S MANUFACTURING
HC 2 BOX 71
ROSCOE SD 57471-9727

BALANCE	PAST DUE	AMOUNT DUE
349.28	349.28	349.28

AT

000000000000 168

MERCHANDISE INVOICE

No 85015

BILLING ACCOUNT NUMBER 566-11-010-0700-2		SERVICE ACCOUNT NUMBER (IF DIFFERENT) 15939		MERCHANDISE SALES ORDER NUMBER S.O. 212347	
ORDER RECEIVED BY R. Bechtold	ORDER DATE 10/25/95	INVOICE DATE 11/09/95	DOWN PAYMENT \$		

PAYMENT TERMS 30 Day Non

CUSTOMER
NAME
&
ADDRESS

SCHURR MANUFACTURING

HC 2 BOX 71

ROSCOE, SD 57471

SERVICE ADDRESS (if Different)

CITY STATE ZIP

TELEPHONE

QUANTITY	DESCRIPTION OF ORDER	UNIT PRICE	AMOUNT
	FINAL BILLING FOR DAMAGE TO 2 MDU POLES		
	LABOR		85.56
	EQUIPMENT USE		31.60
	EXCISE TAX		

NOTICE TO CUSTOMER

The unpaid portion of this invoice will appear on your next utility statement.
If you are not connected to our gas or electric utility lines and do not receive monthly utility statements, please pay from this invoice.

REMIT TO: MONTANA DAKOTA UTILITIES CO.
PO Box 280
Hobridge, SD 57601

TOTAL BILLING BEFORE TAX	117.16
COUNTY SALES TAX	
CITY SALES TAX	
STATE SALES TAX	
LESS DOWN PAYMENT	
NET AMOUNT DUE	117.16

CUSTOMER COPY

7008612 681
REV. 7/88

REMIT **MONTANA-DAKOTA UTILITIES CO.**
TO: A DIVISION OF MDU RESOURCES GROUP, INC.
P.O. BOX 280
MOBRIDGE, SD 57601
PHONE (605) 845-3616



SOLD SCHURR'S MANUFACTURING
TO: HC 2 BOX 71
BOSCOE, SD 57471

INVOICE NO.
20045
DATE
10/24/95

ORDER NO.		ACCOUNT NO.:		TERMS:	
41496W S.O. 212788		18412.84 41496W 210.1432		30 DAY NON INTEREST	
DATE	QUANTITY	DESCRIPTION		UNIT PRICE	AMOUNT
08/25/95		Charges for farm tractor hooking TV cable causing damage to MDU street light.			
			LABOR		103.10
			MATERIAL		88.17
		EXCISE TAX	EQUIPMENT USE		40.85
				TOTAL	232.12
		PARTIAL BILLING			

ORIGINAL INVOICE

No. 2995



MIDCONTINENT
CABLE CO.

INVOICE

Midcontinent Cable Co.
P.O. Box 5010
Sioux Falls, SD 57117-5010

Bill To: Arnold Schurr
603 N Richmond St.
Roscoe, SD 57471

Date: 10/5/95
Customer
Number: 235-13704
Area
Number: 3210

DESCRIPTION:	AMOUNT:
Cost to repair and replace damaged CATV feeder line at the intersection of Andrew St. and Morgan Ave in Roscoe, SD on 8/25/95. Line was tore down by a tractor and digger.	
Materials	\$152.08
Labor - 14 hrs at \$28.00 @	\$392.00
Sub Total	\$544.08
Tax	\$27.20
TOTAL BALANCE DUE:	\$571.28

**Midcontinent
Cable Co.**

1-800-456-0564

ST. 483A

MONTANA-DAKOTA UTILITIES CO.

BOX 280

ROBRIDGE

2239

SD 57601

ACCOUNT NUMBER		
566 11 010 0700 2		
METER NO.	LOC.	BILLING MONTH
222553	52	MAY



DISCONNECT NOTICE

WE WANT TO CONTINUE OUR DEPENDABLE SERVICE TO YOU, OUR VALUED CUSTOMER, BUT YOU MUST TAKE ACTION NOW.

SCHURR'S MANUFACTURING

HC 2 BOX 71

ROSCOE SD 57471-9727

AT

211000000000 173

Payment of your service account is now past due. Your service will be disconnected on 5-20-96 9am unless your past due amount is paid in full or satisfactory arrangements are made before this date. If service is disconnected, payment in full and a reconnect fee of \$ 12.10 to restore service during normal working hours plus a deposit or additional deposit of \$ 215 will be required before service is restored.

Date 5-20-96 By M. Arden
Credit & Collection Department

\$359.87
 Paid #3992
 5-24-96

PAST DUE	CURRENT	ACCT. BALANCE
356.30	138.70	495.00

DIRECT INQUIRIES TO MDU, BOX 327
 PHONE 800 638-3278 IPSWICH SD 57451 * REFER
 UNRESOLVED COMPLAINTS TO: S.D. PUBLIC UTILITIES COMMISSION
 CAPITOL BLDG, 500 E CAPITOL, PIERRE, SD 57501 1-800-332-1782



MONTANA-DAKOTA

UTILITIES CO.

A Division of MDU Resources Group, Inc.

401 Main
P.O. Box 280
Mobridge, SD 57601

December 8, 1995

Arnold Schurr
34@71-129th St.
Roscoe, SD 57471

Mr. Schurr:

In reference to damage to MDU property due to one of your diggers catching on a cable TV line, the MDU lines had a minimum clearance of 22.5 ft. at the location where the cable TV line was caught. This exceeds the standards of MDU Co. and the National Electrical Safety Code (NESC). MDU has a contract agreement with Midcontinent Cable Co. to allow them attachment to MDU poles. Midcontinent Cable Co. is responsible for maintaining adequate clearances of their lines and equipment to comply with the NESC. At the time Midcontinent Cable Co. attached to our poles they were in compliance with the NESC.

We at MDU hold you responsible for our damages since it was your equipment which caused the damage. If you feel Midcontinent Cable Co. was in violation that is something you will have to pursue with them. We would like to receive payment for our damages by December 31, 1995.

If you have any questions feel free to call me at our Mobridge office at 845-3616.

Sincerely,

Bruce Brekke
Electric Operations Supervisor

BB/bg

cc: Dennis Schnabel



MIDCONTINENT CABLE CO.

24 1st AVENUE NE • P.O. BOX 910 • ABERDEEN, SD 57402-0910
IN ABERDEEN: 299-1775 • TOLL FREE: 1-800-456-0564 • FAX: 605-229-0572

December 10, 1991

Arnold Scharr
34871 106th St.
Roscoe, SD 57471

Dear Mr. Scharr,

In regards to your letter that you sent us concerning the CATV line that was tore down in Roscoe on 8/15/91 by your farm implement.

our CATV line was well above the required height that is set by the National Electrical Code for road crossings, there was not a big sag in the line. Our Local Service Representative that runs the Roscoe cable system and that is in this town working one or two times a week did not notice this line sagging at all prior to this incident.

I am holding you fully responsible for the damage to our CATV line, because our CATV line was installed properly and it was at the proper height crossing the road.

If you have any questions please give me a call, thanks.

Sincerely,

Clay Stephens
System Manager



Bringing you QUALITY entertainment, with a QUANTITY of programming and excellent SERVICE

An Equal Opportunity Employer



Arnold Schurr
34671 129th St
Koscoe SD 57471

January 15, 1995

Midcontinent Cable Co.
PO Box 5010
Sioux Falls SD 57117-5010

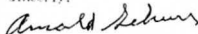
Dear Sirs:

In response to your letter of December 13, 1995, we do not think our machinery is taller than the National Electric Code calls for over a state highway. Our machines do not get higher or lower when they are in the transport position; therefore, I think we should settle this matter once and for all.

How about you letting us know what this code calls for, or getting a copy of it for us. Then come and measure our equipment to see if it is too tall.

Hope to hear from you soon.

Sincerely,



Arnold Schurr

cc: Montana Dakota Utilities

Arnold Schurr
34671 129th St
Roscoe SD 57471

December 7, 1995

Midcontinent Cable Co.
PO Box 5010
Sioux Falls SD 57117-5010

Montana-Dakota Utilities
PO Box 280
Moberge SD 57601

Dear Sirs:

If I got the story right, on or about August 25, 1995, one of my diggers hooked a cable TV line and damaged it and as a result of this some damage was done to MEU property.

At the time this happened Main Street was closed due to railroad repair and the traffic was sent down Andrew Street, which is the only other crossing in Roscoe. I suppose my man assumed the wires were high enough and had the accident. This type of problem is common with large chisel plows. We are very careful that none of our diggers are above the legal height.

Gerd Rohwedder, who lives in a house on this intersection, said the cable line had been sagging for a long time, this probably contributed to the incident.

I don't think I am responsible for repairing your cable systems, when they are improperly installed, and I think it is wrong that they are hanging on high voltage power lines, this seems like a very dangerous mix.

Stop in at my shop anytime, so that we can discuss this matter.

Sincerely,



Arnold Schurr

cc: Midcontinent Cable Co
Montana-Dakota Utilities

copy encl: Gerd's statement
MEU bill
Mideo bill



MID-CONTINENT CABLE CO.

24 1st AVENUE NE • P.O. BOX 910 • ABERDEEN, SD 57402-0910
IN ABERDEEN: 229-1775 • TOLL FREE: 1-800-456-0564 • FAX: 605-229-0572

February 13, 1996

Arnold Schurr
603 N Richmond St.
Roscoe, SD 57471

Dear Mr. Schurr,

Attached, please find two pages that I copied out of the National Electrical Safety Code Book. Page 78 shows the chart on clearances, I have high lighted the column that pertains to communication cables. As you can see the required height over roads, streets, etc., is 15'5", page 79 is footnotes for the chart on page 78.

In regards to your letter that I received on January 23, 1996, the required height when traveling down a state highway is 14', anything higher than 14' you are required to have a permit. This is set by the South Dakota Department of Transportation and most cities follow these same requirements, but the intersection where you tore our line down was not a state highway, it was a city street. Now maybe farmers or implement dealers are exempt from some of these required heights, I am not sure.

But again, our CATV line was well above the required height, which is 15'5". It really does not matter what the height was on your digger, the fact is, that your digger did tear our line down and our line was well above the required height. There is no way that our line would be sagging 2 1/2' in about a 150' span when our line is attached on the poles at 18' or higher. So I am still holding you fully responsible for the damages that were done to our CATV distribution line at the intersection of Andrew St. and Morgan Ave in Roscoe, SD on 8/25/95. If we do not receive payment by the 15th of March, this invoice will be turned into collections.

If you have any questions please give me a call at 605-229-1778 ext. 654, I to would like to get this issue resolved.

Sincerely,

Clay Stephens
System Manager

cc: Jerry Steever
Regional Manager



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Table 232-1

FT

Vertical Clearance of Wires, Conductors, and Cables Above Ground, Roadway, Rail or Water Surfaces[Ⓢ]

(Voltages are phase to ground for effectively grounded circuits and those other circuits where all ground faults are cleared by promptly de-energizing the faulted section, both initially and following subsequent breaker operations. See the definitions section for voltages of other systems. See Rules 232B1, 232C1a, and 232D4.)

Nature of surface underneath wires, conductors, or cables	Insulated [Ⓢ] communication conductors and cable; messengers; surge-protection wires; neutral conductors meeting Rule 230E1; supply cables meeting Rule 230C1 (ft)	Noninsulated communication conductors; supply cables of 0 to 750 V meeting Rules 230C2 or 230C3 (ft)	Supply cables over 750 V meeting Rules 230C2 or 230C3, open supply conductors, 0 to 750 V (ft)	Open supply conductors, over 750 V to 22 kV (ft)	Trolley and electrified railroad contact conductors and associated span or messenger wires [Ⓢ]	
					0 to 750 V to ground (ft)	Over 750 V to 22 kV to ground (ft)
Where wires, conductors, or cables cross over or overhang						
1. Track rails of railroads (except electrified railroads using overhead trolley conductors) [Ⓢ] ⓈⓈ	23.5	24.0	24.5	25.5	22.0 [Ⓢ]	22.0 [Ⓢ]
2. Roads, streets, and other areas subject to truck traffic [Ⓢ] Ⓢ	15.5 [Ⓢ]	16.0	16.5	18.5	18.0 [Ⓢ]	20.0 [Ⓢ]
3. Driveways, parking lots, and alleys [Ⓢ] Ⓢ	15.5 [Ⓢ]	16.0 [Ⓢ]	16.5 [Ⓢ]	18.5	18.0 [Ⓢ]	20.0 [Ⓢ]
4. Other land traversed by vehicles, such as cultivated, grading, forest, orchard, etc. [Ⓢ]	15.5 [Ⓢ]	16.0	16.5	18.5	—	—
5. Spaces and ways subject to pedestrians or restricted traffic only [Ⓢ]	9.5	12.0 [Ⓢ]	12.5 [Ⓢ]	14.5	16.0	18.0
6. Water areas not suitable for sailboating or where sailboating is prohibited [Ⓢ]	14.0	14.5	15.0	17.0	—	—
7. Water areas suitable for sailboating including lakes, ponds, reservoirs, tidal waters, rivers, streams, and canals with an unobstructed surface area of [Ⓢ] ⓈⓈ						
a. Less than 20 acres	17.5	18.0	18.5	20.5	—	—
b. Over 20 to 200 acres	25.5	26.0	26.5	28.5	—	—
c. Over 200 to 2000 acres	31.5	32.0	32.5	34.5	—	—
d. Over 2000 acres	37.5	38.0	38.5	40.5	—	—
8. Public or private land and water areas posted for rigging or launching sailboats	Clearance above ground shall be 5 ft. greater than in 7 above, for the type of water areas served by the launching site					
Where wires, conductors, or cables run along and within the limits of highways or other road rights-of-way but do not overhang the roadway						
9. Roads, streets, or alleys	15.5 [Ⓢ]	16.0 [Ⓢ]	16.5	18.5	18.0 [Ⓢ]	20.0 [Ⓢ]
10. Roads in rural districts where it is unlikely that vehicles will be crossing under the line	13.5 [Ⓢ]	14.0 [Ⓢ]	14.5 [Ⓢ]	16.5	18.0 [Ⓢ]	20.0 [Ⓢ]

(continued on next page)

Footnotes for Table 232-1

FT

① Where subways, tunnels, or bridges require it, less clearance above ground or rails than required by Table 232-1 may be used locally. The trolley and electrified railroad contact conductor should be graded very gradually from the regular construction down to the reduced elevation.

② For wires, conductors, or cables crossing over mine, logging, and similar railways that handle only cars lower than standard freight cars, the clearance may be reduced by an amount equal to the difference in height between the highest loaded car handled and 20 ft, but the clearance shall not be reduced below that required for street crossings.

③ This footnote not used in this edition.

④ In communities where 21 ft has been established, this clearance may be continued if carefully maintained. The elevation of the contact conductor should be the same in the crossing and next adjacent spans. (See Rule 225D2 for conditions that must be met where uniform height above rail is impractical.)

⑤ In communities where 16 ft has been established for trolley and electrified railroad contact conductors 0 to 750 V to ground, or 18 ft for trolley and electrified railroad contact conductors exceeding 750 V, or where local conditions make it impractical to obtain the clearance given in the table, these reduced clearances may be used if carefully maintained.

⑥ This footnote not used in this edition.

⑦ Where the height of attachment to a building or other installation does not permit service drops to meet these values, the clearances over residential driveways only may be reduced to the following: (feet)

(a) Insulated supply service drops limited to 300 V to ground	12.5
(b) Insulated drip loops of supply service drops limited to 300 V to ground	10.5
(c) Supply service drops limited to 150 V to ground and meeting Rules 230C1 or 230C3	12.0
(d) Drip loops only of service drops limited to 150 V to ground and meeting Rules 230C1 or 230C3	10.0
(e) Insulated communication service drops	11.5

⑧ Where the height of attachment to a building or other installation does not permit service drops to meet these values, the clearances may be reduced to the following: (feet)

(a) Insulated supply service drops limited to 300 V to ground	10.5
(b) Insulated drip loops of supply service drops limited to 300 V to ground	10.5
(c) Supply service drops limited to 150 V to ground and meeting Rules 230C1 or 230C3	10.0
(d) Drip loops only of supply service drops limited to 150 V to ground and meeting Rules 230C1 or 230C3	10.0

⑨ Spaces and ways subject to pedestrians or restricted traffic only are those areas where riders on horseback, vehicles, or other mobile units exceeding 8 ft in height, are prohibited by regulation or permanent terrain configuration, or are otherwise not normally encountered nor reasonably anticipated.

⑩ Where a supply or communication line along a road is located relative to fences, ditches, embankments, etc., so that the ground under the line would not be expected to be traveled except by pedestrians, the clearances may be reduced to the following values: (feet)

(a) Insulated communication conductor and communication cables	9.5
(b) Conductors of other communication circuits	9.5
(c) Supply cables of any voltage meeting Rule 230C1 and supply cables limited to 150 V to ground meeting Rules 230C2 or 230C3	9.5
(d) Insulated supply conductors limited to 300 V to ground	12.5
(e) Guys	9.5

⑪ No clearance from ground is required for anchor guys not crossing tracks, rails, streets, driveways, roads, or pathways.

⑫ This clearance may be reduced to 13 ft for communication conductors and guys.

⑬ Where this construction crosses over or runs along alleys, driveways, or parking lots, this clearance may be reduced to 15 ft.

⑭ This footnote not used in this edition.

⑮ This footnote not used in this edition.

⑯ Adjacent to tunnels and overhead bridges that restrict the height of loaded rail cars to less than 20 ft, these clearances may be reduced by the difference between the highest loaded rail car handled and 20 ft, if mutually agreed to by the parties at interest.

⑰ For controlled impoundments, the surface area and corresponding clearances shall be based upon the design high-water level. For other waters, the surface area shall be that enclosed by its annual high-water mark, and clearances shall be based on the normal flood level. The clearance over rivers, streams, and canals shall be based upon the largest surface area of any 1-mi-long segment that includes the crossing. The clearance over a canal, river, or stream normally used to provide access for sailboats to a larger body of water shall be the same as that required for the larger body of water.

⑱ Where an overwater obstruction restricts vessel height to less than the applicable reference height given in Table 232-3, the required clearance may be reduced by the difference between the reference height and the overwater obstruction height, except that the reduced clearance shall be not less than that required for the surface area on the line-crossing side of the obstruction.

⑲ Where the US Army Corps of Engineers, or the state, or surrogate thereof has issued a crossing permit, clearances of that permit shall govern.

⑳ See Rule 2341 for the required horizontal and diagonal clearances to rail cars.

㉑ For the purpose of this rule, trucks are defined as any vehicle exceeding 8 ft in height. Areas not subject to truck traffic are areas where truck traffic is not normally encountered nor reasonably anticipated.

㉒ This footnote not used in this edition.

㉓ This footnote not used in this edition.

㉔ Communication cables and conductors may have a clearance of 15 ft where poles are back of curbs or other deterrents to vehicular traffic.

㉕ The clearance values shown in this table are computed by adding the applicable Mechanical and Electrical (M&E) value of Table A-1 to the applicable Reference Component of Table A-2a of Appendix A.

UTILITY LINES ALONG AND ACROSS HIGHWAYS

31-26-3

CHAPTER 31-25

FENCES, CATTLE WAYS AND LIVESTOCK GUARDS

31-25-1. Fences across highways — Petition by adjacent landowners — Notice and hearing — Gates or grates required.

Opinions of Attorney General.

Where a landowner has fenced a section line the remedies available to members of the public are self help, where no malicious destruction takes place, and no more is done than is reasonably necessary to allow travel of the section line, the township board of supervisors or board

of county commissioners can be petitioned, either in writing or orally in a regular meeting, to open and operate the highway as required by law, or an aggrieved party can bring an action in circuit court for an injunction or other appropriate relief to end obstruction of the section line highway. Opinion No. 87-42.

31-25-1.1. Fences erected across unimproved section-line highways — Gates — Access to highways protected — Violation as misdemeanor.

Opinions of Attorney General.

Unimproved section lines may be used for travel, but may not be hunted, they also may be fenced, but landowners are required to provide a gate and access to the unimproved section line. Opinion No. 87-42.

Where a landowner has fenced a section line, the remedies available to members of the public are self help, where no malicious destruction takes place, and no more is done than is rea-

sonably necessary to allow travel of the section line, the township board of supervisors or board of county commissioners can be petitioned, either in writing or orally in a regular meeting, to open and operate the highway as required by law, or an aggrieved party can bring an action in circuit court for an injunction or other appropriate relief to end obstruction of the section line highway. Opinion No. 87-42.

CHAPTER 31-26

UTILITY LINES ALONG AND ACROSS HIGHWAYS

Section

31-26-2

Location of poles and fixtures — Procedure

31-26-3

"Person" including other entities

31-26-3.1

Electrical lines, pipelines, communication lines and other utilities — Permits authorized — Rules

Appeal to commission and circuit court

31-26-1. Application to board of county commissioners to erect poles and wires for electricity and telephone — Period covered by application — Regulation by Legislature.

Opinions of Attorney General.

Where an electric utility has its poles and fixtures located within county highway right-of-way and the county wishes to regrade and improve six miles of this road, the electric utility is responsible for the cost of removal and relocation of poles and lines located within

county highway right-of-way. Opinion No. 90-16.

An electric utility is responsible for the cost of removal and relocation of poles and lines located within the county highway right-of-way on construction or reconstruction of the highway by the county. Opinion No. 90-16.

31-26-3. Location of poles and fixtures — Appeal to commission and circuit court — Procedure. The poles and fixtures, guy wires, braces and stays erected under § 31-26-1 shall be located under the joint field supervision and direction of the grantee and the governing body charged with the

57

Post-it Fax Note	7671	Date	6/14/96	Page	5
To: Arnold Schurr		From: Steve Wegman			
Co./Dept.		Co.			
Phone #		Phone #			
Fax #	605-287-4626	Fax #			

l by tax deed proceedings
ate for highway purposes
or dedication of same fully
hereafter, all conveyances
yance, grant or dedicatio
ts, or dedications shall be
an of the board of county
r, and shall contain a
ated causes for the period
all revert to the county or

substantive "the board may" for
is hereby authorized to", and
le of said sentence, substituted
for "§ 7-29-C and 7-31-16, as to
and public sale."

INTRACTS

Conditions of bond

unt of bond — Condi-
before any contract is
nt of any public highway
tion within the State of
awarded shall furnish a
ita in an amount not less
of such contract, in the
e State of South Dakota.

1-12-15, before "before" as
the section.

tion on bond — Time
its of notice — Service

circuit court as from other decisions from such board, and on such appeal the circuit court shall hear and determine the matter de novo. The hearing of such appeal may be brought on either in vacation or term time upon ten days' notice to the applicant or appellant.

Source: SL 1911, ch 369, § 2; RC 1919, § 8592; SL 1913, ch 321, SDC 1935, § 28, 1902, SL 1951, ch 141, 1952, ch 149, § 2.

Cross-References.

Appeal from board of county commissioners, §§ 7-4-27 to 7-4-31.

31-26-18. Change of route — Change by county board — Appeal — Procedure. When the board of county commissioners shall have granted the right to any person to construct lines for the transmission of electricity as provided in §§ 31-26-1 to 31-26-17, inclusive, and if before constructing such line the applicant shall desire to change the route designated in the grant, the board may change the route upon application of the person constructing the same subject to the same provisions for placing poles, fixtures, guy wires, braces and stays, as provided by law on original construction.

Source: SL 1913, ch 369, § 3; RC 1919, § 8593; SDC 1939, § 28, 1902; SL 1953, ch 149, § 3, 1953, ch 151.

31-26-19. Minimum height of utility lines — Liability for damage to lines below minimum height. It shall be a Class 2 misdemeanor for any person, firm, association, or corporation owning or operating any telephone, telegraph, or electric line, or any part of such line in this state, to extend any telephone, telegraph, or electric wire, any part of which shall be less than eighteen feet from the ground, over or across any public highway. No such person, firm, association, or corporation shall be entitled to collect damages from any person who shall cut, break, remove, or otherwise destroy any such telephone, telegraph, or electric wire over or across a public highway if any part of the same is at any time less than eighteen feet from the ground.

Source: SL 1921, ch 251, SDC 1939, § 28, 1904; SL 1965, ch 134.

Penalties for classified misdemeanors, § 22-4-2.

Commission Note.

The code commission classified the offense described in this section in accordance with the directions contained in § 43-6, ch 158, SL 1978.

Easement over Private Property.

Height requirement of this section did not apply where electric wires passed over an easement on private property. *Hale v. Montana-Nakota Utilities Co.* (1981) 192 F.2d 274.

Cross-References.

Minimum height of wires, §§ 49-32-5, 49-32-6.

31-26-20. Cost of adjusting lines to minimum height — Acquisition of new highway right-of-way — Items excluded from cost. Costs of adjusting said lines to conform to the minimum height as set out in § 31-26-19 may only be assumed by the governmental body



South Dakota Public Utilities Commission

State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070



FACSIMILE TRANSMISSION

DATE: **June 11, 1996** TIME: **1:56 pm**

TO: Dennis Schnabel, MDU
845-3619

Jamie Oberle
761-222-7521

Capitol Office
Telephone (605) 773-3201
FAX (605) 773-3809

Transportation
Warehouse Division
Telephone (605) 773-5288
FAX (605) 773-3225

Consumer Hotline
1-800-332-1782

TDY Through
Relay South Dakota
1-800-877-1113

Internet
bill@puc.state.sd.us

♦
Ken Stofferahn
Chairman
Jim Burg
Vice-Chairman
Lanka Schoenfelder
Commissioner

William Ballard Jr.
Executive Director

Edward R. Anderson
Harlan Best
Marta C. Bettmann
Charles Bille
Sue Cahoon
Karen E. Cramer
Marlene Fischbach
Shirleen Fugitt
Richard Gallup
Lewis Hammond
Tawna Hendrix
Loni Hook
Cameron Howick
Dave Jacobson
Bob Kradie
DeLaine Kolbo
Jim A. Konechne
Tern J. Lemmester
Terry Norum
Gregory A. Ralov
Steven M. Wegman
Rosalynne Alts West

FROM: Leni Hook, Consumer Affairs

MEMO: We have received the following formal complaint from Arnold Schurr. In an effort to resolve the complaint through an informal process, the complaint will not be docketed until 4 PM June 12, 1996. If an attempt is going to be made to reach an informal resolution, please contact our offices before that time.

Thank you!

If there is a problem receiving this document, please contact Shirleen at 1-800-332-1782.

THIS COMMUNICATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering this communication to the intended recipient, you are hereby notified that any distribution, use or copying of this communication is prohibited. If you received this communication in error, please notify us immediately by telephone (605) 773-3201 and return the original message to us at the above address via the U.S. Postal Service. Thank you!

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE COMPLAINT FILED))	ORDER DISMISSING
BY ARNOLD SCHURR AGAINST MONTANA))	COMPLAINT AND CLOSING
DAKOTA UTILITIES COMPANY REGARDING))	<u>DOCKET</u>
DAMAGES TO A STREET LIGHT))	
))	EL96-013

On June 11, 1996, the Public Utilities Commission (Commission) received a formal complaint from Arnold Schurr, 34671 129th Street, Roscoe, SD 57471 (Schurr) concerning a demand for payment by Montana Dakota Utilities Company (MDU) for damages alleged to have been inflicted upon MDU's street light and disconnection procedures which were initiated by MDU. MidContinent Cable TV also billed Schurr for damages to its facility allegedly occurring in the same incident.

On July 30, 1996, at its regularly scheduled meeting, the Commission reviewed this matter. The Commission has jurisdiction over this matter pursuant to SDCL 49-34A-2, 49-34A-2 1, 49-34A-4, 49-34A-6, 49-34A-9, 49-34A-58 and ARSD Chapter 20.10.20.

As Mr. Schurr and MDU have resolved all the issues complained of by Mr. Schurr, Commission Staff recommended that the Commission dismiss the complaint and close the docket. Further, Commission staff recommended that no action be taken as to MidContinent Cable TV due to the Commission's lack of jurisdiction over cable tv companies. It is therefore

ORDERED, that the complaint be dismissed and that docket EL96-013 be closed.

Dated at Pierre, South Dakota, this 24 day of August, 1996.

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 or by first class mail, in properly addressed envelopes, with charges prepaid thereon.
By <u>Allen Kalkbrenner</u>
Date <u>8/1/96</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Kenneth Stofferahn
KENNETH STOFFERAHN, Chairman

James A. Burg
JAMES A. BURG, Commissioner