

- procedures pursuant to SDCL 49-7A-4 to regulate the notification process of the above, as provided by ARSD 20:25.
5. One-Call, pursuant to SDCL 49-7A-17, has the authority to receive complaints against persons who violate provisions of SDCL chapter 49-7A and rules promulgated by One-Call. Pursuant to SDCL 49-7A-18 and 49-7A-19, One-Call may assess civil penalties against persons found to have violated these laws.
 6. On July 31, 2012, One-Call received a complaint against Defendant, pursuant to SDCL 49-7A-17. The complaint was filed by Watertown Municipal Utilities. The complaint is attached hereto as Exhibit A.
 7. Pursuant to SDCL 49-7A-22, a five member panel ("Panel") was appointed by the Chairman of One-Call to hear the complaint. The Panel found probable cause existed to believe violations of South Dakota One Call law occurred.
 8. The Panel found probable cause existed to believe two separate violations of SDCL 49-7A-5 occurred. Specifically, the Panel found Defendant performed excavation without a valid ticket on Saturday, July 28, 2012, and Sunday, July 29, 2012. Based on the existence of previous complaints against Defendant, and its lack of response to the Complaint, the Panel found the violation to be intentional.
 9. The Panel also found probable cause existed to believe a violation of ARSD 20:25:03:05.03 occurred. Specifically, the Panel found that Defendant failed to properly expose facilities in compliance with the

administrative rule. Based on the existence of previous Complaints against Defendant and Defendant's lack of response to the Complaint, the Panel found the violation to be intentional.

10. For the July 28, 2012, violation of SDCL 49-7A-5, the Panel recommended a Five Thousand Dollar (\$5,000). The Panel found it proper, however, to suspend Two Thousand Five Hundred Dollars (\$2,500) on the condition that payment of the remaining amount be made within thirty days from the receipt of the One-Call Order, Defendant not be found guilty of a One Call violation within the next twelve months, Defendant conduct an in-house gas safety meeting, and Defendant attend a Spring 2013 South Dakota One Call excavator meeting.
11. For the July 29, 2012, violation of SDCL 49-7A-19, the Panel recommended a civil penalty be assessed against Defendant in the amount of Five Thousand Dollars (\$5,000).
12. For the violation of ARSD 20:25:03:05.03, the Panel recommended a civil penalty be assessed against Defendant in the amount of Five Thousand Dollars (\$5,000).
13. A copy of the Panel's recommendations was served on Defendant via first class mail. The Panel recommendations are attached hereto as Exhibit B. Defendant, however, failed to respond to the recommendations. Defendant's failure to respond and failure to

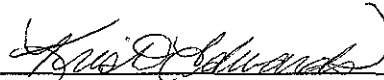
request a hearing constitutes acceptance of the Panel's recommendations per SDCL 49-7A-27.

14. Based on Defendant's failure to respond or request a hearing, One-Call issued an Order on October 3, 2012. The One-Call Order was served on Defendant via first class mail on October 4, 2012. The One-Call Order is attached hereto as Exhibit C. The time for Defendant to appeal the decision of One-Call expired according to SDCL 1-26-31.
15. Defendant made one payment in the amount of Two Thousand Five Hundred Dollars (\$2,500).
16. Defendant failed to pay the remainder of the civil penalty or comply with the conditions of the suspended penalty and now owes Twelve Thousand Five Hundred Dollars (\$12,500) in civil penalties.
17. One-Call made a written demand to Defendant for payment of the civil penalties pursuant to SDCL 49-7A-33. The demand was served on Defendant via first class mail. A copy of the demand is attached hereto as Exhibit D. More than thirty (30) days have elapsed since the demand letter was sent and Defendant failed to pay the prescribed civil penalties.
18. One-Call requested the Commission bring an action in the Court against Defendant to recover such penalty in accordance with SDCL 49-7A-28.

WHEREFORE, Plaintiff requests that the Court enter judgment by default against Defendant as follows:

1. For a monetary judgment in the amount of \$12,500 against
Defendant.

Dated this 13th day of February, 2013.



Kristen N. Edwards
Special Assistant Attorney General
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501