

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT FILED BY)
MONTANA DAKOTA UTILITIES CO., RAPID)
CITY, SOUTH DAKOTA, AGAINST JEREMY)
NEHL, RAPID CITY, SOUTH DAKOTA, FOR AN)
INCIDENT OCCURRING ON MARCH 31, 2016, AT)
6740 PRESTWICK RD. RAPID CITY, S.D.)

ORDER ADOPTING
ENFORCEMENT PANEL
RECOMMENDATION TO THE SD
ONE CALL BOARD AND TO
PURSUE COLLECTION ACTION
IF NECESSARY

OC16-006

On May 13, 2016, the South Dakota Public Utilities Commission received a complaint from Montana Dakota Utilities against Jeremy Nehl (Respondent). The complaint alleges that on or about March 31, 2016, Respondent engaged in excavation without making a locate request.

A copy of the complaint was sent to Respondent on May 23, 2016. Respondent did not respond to the Notice of Complaint by the June 13, 2016 deadline. Respondent did answer the Complaint after the June 13, 2016 deadline.

On July 29, 2016, pursuant to SDCL 49-7A-22 a panel of five One Call Board members (Panel) convened. The Panel met to determine whether probable cause exists to believe the violation occurred as described in the complaint. The Panel found sufficient evidence was presented to determine probable cause exists to believe a violation of SDCL 49-7A-5 occurred. Specifically, the Panel found Respondent performed excavation without making a locate request. The Panel did not find the violation to be intentional.

The Panel found it proper to assess a \$1000.00 penalty for this offense. The Panel found it proper to suspend \$250.00 of the penalty under the following conditions:

- i. Respondent shall make payment of the \$750.00 unsuspended portion of the penalty within thirty days of issuance of the final SD One Call Board Order.
- ii. Payment shall be remitted to: South Dakota Public Utilities Commission, 500 E. Capitol Ave., Pierre, SD 57501.
- iii. Respondent shall attend a damage prevention seminar in the spring of 2017.
- iv. Respondent shall conduct an in-house safety meeting with its subcontractor to review the One Call laws. The meeting shall be held within 30 days of the final One Call Order, unless such meeting has occurred prior to the issuance of the Order, but subsequent to the violation. Documentation shall include the printed and signed names of meeting participants, details of the material discussed, and the date and length of the meeting. Documentation shall be submitted to the Executive Director of South Dakota One Call within that 30 day period.
- v. Respondent must not be found to have committed another violation of a One Call rule or regulation within the 12 months of the SD One Call Board Order.

If any of the conditions are not met, the entire \$1,000.00 Penalty will be immediately due and owing.

At its regularly scheduled meeting on November 8, 2016, the South Dakota One Call Board, pursuant to SDCL 49-7A-27, reviewed the Panel's procedure and approved its findings.

It is 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; it is further

ORDERED, that if the penalty is not paid, the Board shall pursue any rights it has under the law regarding collection.

The South Dakota One-Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A and ARSD 20:25.

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 by first class mail, or by other electronic means.


Larry L. Janes, Executive Director

Date 12-9-2016

BY ORDER OF THE SD ONE-CALL BOARD:

Dated at Snow Falls, South Dakota
This 5 day of August, 2016


Dan Kaiser, Chairman