

# **ENFORCEMENT COMMITTEE ACTION**

## **OC07-009**

**Northern Natural Gas Company vs. Bowes Construction, Inc.**

### **FINDINGS:**

#### **OC07-009**

#### **Alleged Violation of SDCL 49-7A-5 Notification of Proposed Excavation**

Allegation is made by Northern Natural Gas Company that Bowes Construction, Inc. had violated SDCL 49-7A-5 by commencing excavation on ticket number 073100221 prior to the start date of November 8, 2007 and had failed to provide an accurate description of the location of the excavation on the same locate request. Bowes Construction, Inc. did not dispute the allegation that they had commenced excavation prior to the start date on the ticket but did dispute the allegation that the location of the excavation site was accurately reflected on the locate request. Bowes Construction did provide a plan to avoid similar situations in the future.

In reviewing the complaint filed by Northern Natural Gas Company and the response from Bowes Construction, Inc., the committee determined the following:

Bowes Construction, Inc. had violated SDCL 49-7A-5 by commencing excavation on ticket number 073100221 prior to the start date of November 8, 2007.

Based on the information noted above, the Committee found there is probable cause to find Bowes Construction, Inc. violated SDCL 49-7A-5 when they failed to provide advance notice to the South Dakota One Call System.

### **RECOMMENDATION**

#### **OC07-009**

#### **VIOLATION OF SOUTH DAKOTA SDCL 49-7A-5:**

The Committee found there is probable cause that Bowes Construction, Inc violated SDCL 49-7A-5 by commencing excavation on ticket number 073100221 prior to the start date of November 8, 2007.

#### **PROPOSED PENALTY FOR THIS VIOLATION AUTHORIZED UNDER SDCL 49-7A-18:**

Based on the amount of damage and potential threat to public safety, the committee recommends a penalty of one thousand dollars (\$1,000.00):

- Bowes Construction, Inc. should be aware that any future violation of SDCL 49-7A or ARSD 20:25 within twelve months from the date of the final order are be subject to additional penalties up to a maximum of \$5000 under SDCL 49-7A-18.

#### **COMMENTS:**

Committee recommends that Bowes Construction consider using an electronic ticketing process that would allow them to have a file copy of all tickets available for their use at any time. Brochure explaining the processes available is enclosed for their review.