

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE) ORDER
COMPLAINT AGAINST BOWES) OC07-009
CONSTRUCTION, INC.)

On December 5, 2007, the South Dakota Public Utilities Commission received a complaint from Northern Natural Gas Company against Bowes Construction, Inc. 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.

On January 9, 2008, the Enforcement Committee of the South Dakota One Call Notification Board met and 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. Based on the amount of damage and potential threat to public safety, the Enforcement Committee recommended a penalty of one thousand dollars (\$1,000.00).

All interested parties agreed with the recommendations of the Enforcement Committee. By January 28, 2008, all interested parties had signed the Enforcement Committee Action Agreement.

ORDERED, that the terms and conditions of the Enforcement Committee Action Agreement and the Acceptance of the recommended resolution by Northern Natural Gas Company shall be incorporated into this Order by reference and attached hereto, the same as if it was fully recited herein and shall as such be fully binding upon the parties to it; and it is

FURTHER ORDERED that the docket in this matter shall be closed.

The South Dakota One-Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A, specifically 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, 49-7A-26.

Dated at Sioux Falls, South Dakota, this 1st day of February 2008.

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: s/s Larry Englerth

Larry Englerth, Executive Director

Date February 1, 2008

BY ORDER OF THE SD ONE-CALL BOARD:

s/s Jerry Schroeder

JERRY SCHROEDER, Chairman

s/s Larry Englerth

Under the Authority and on Behalf of the
Chairman

LARRY ENGLERTH, Executive Director

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.