

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

**IN THE MATTER OF THE COMPLAINT FILED)
BY LARRY ENGLERTH, SIOUX FALLS, SOUTH)
DAKOTA, AGAINST MARK SEIFKES DBA)
S.P.O.T., DESMET, SOUTH DAKOTA)**

**ORDER GRANTING CIVIL)
COURT FILING)

OC09-002**

On March 3, 2009, the South Dakota One Call Board received a complaint from Larry Englerth against Mark Seifkes, dba S.P.O.T. (Seifkes). According to the complaint, although S.P.O.T. is statutorily required to be a member of the Once Call System, he refused to join.

One June 11, 2009, the Enforcement Committee of the South Dakota One Call Notification Board (Enforcement Committee) Ordered that a penalty of one thousand dollars (\$1,000.00) pursuant to SDCL 49-7A-18 and five thousand dollars (\$5,000.00) pursuant to SDCL 49-7A-19 for a total fine of six thousand dollars (\$6,000.00) be paid by Seifkes. The penalty could be waived if Seifkes fully complies with SDCL 49-7A by completing membership in the South Dakota One Call System and that he fully complies with SDCL 49-7A and ARSD 20:25 for twelve months following acceptance or resolution of Complaint OC09-002, or arrange with a third party, such as the City of DeSmet, to assume responsibility for receipt of excavation notifications marking of the sewer line operated by him.

The One Call Board issued an Order incorporating the Enforcement Committee's recommendations. Seifkes failed to comply with the One Call Order. The One Call Board issued a demand letter on July 21, 2009, pursuant to SDCL 49-7A-33. Seifkes failed to reply to the demand letter. The One Call Board requested the Public Utilities Commission bring an action in the name of the State of South Dakota to recover the original assessed penalty of \$6,000.

At the June 1, 2010, meeting, the Commission discussed the One Call Board's request. The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-7A. The Commission finds it is appropriate to bring an action to recover the One Call penalty of \$6,000. It is therefore

ORDERED, that action be brought in the name of the State of South Dakota to recover the One Call penalty in docket OC09-002.

Dated at Pierre, South Dakota, this 11th day of June, 2010.

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, electronically.
By: <u>[Signature]</u>
Date: <u>06/11/10</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

[Signature]
DUSTIN M. JOHNSON, Chairman

[Signature]
STEVE KOLBECK, Commissioner

[Signature]
GARY HANSON, Commissioner