



**Know what's below.
Call before you dig.**



February 8, 2010

Lawrence R. Harris Jr.
Larry's Electric
3711 Airport Rd., Ste #1,
Pierre, SD 57501

William Heaston, Attorney
South Dakota Network LLC
2900 W. 10th Street
Sioux Falls, SD 57104

Re: OC09-007 – In the Matter of the Complaint filed by South Dakota Network, LLC, Sioux Falls, South Dakota, against Larry's Electric, Inc., Pierre, South Dakota.

Under the authority granted by SDCL 49-7A-22, the Enforcement Committee of the South Dakota One Call Notification Board first met on November 12, 2009, to determine whether there is probable cause to believe Larry's Electric, Inc. violated One Call statutes or rules. The Enforcement Committee found probable cause did not exist and recommended dismissal of the Complaint. On November 25, 2009, South Dakota Network LLC rejected the Committee findings and requested a hearing. On January, 11, 2009, South Dakota Network LLC requested the Enforcement Committee reconsider the complaint yet preserved its right to ultimately request a hearing if it remains necessary.

The Enforcement Committee met to reconsider the decision on January 21, 2009 per South Dakota Network's request. The Enforcement Committee again found probable cause does not exist and recommended dismissal. Under SDCL 49-7A-27 either party may accept or reject the recommendation of the Enforcement Committee. A rejection results in a formal hearing on the violation alleged in the complaint.

Please reply to the One Call Board and copy all other parties to this case using the attached form. Failure to respond to this notice is considered acceptance of the Enforcement Committee recommendation and your right to a hearing is waived. **Please return the signed and dated form prior to the close of business on March 1, 2010, to:**

South Dakota One Call Notification Board
c/o Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

If both parties accept this resolution, the South Dakota One Call Notification Board must accept the resolution and close this complaint. If, however, either party rejects the Enforcement Committee recommendation, the entire South Dakota One Call Notification Board will conduct an evidentiary hearing as a contested case under Chapter 1-26. Following an evidentiary hearing, the Board shall either render a decision dismissing the complaint for insufficient evidence or shall impose a penalty pursuant to SDCL 49-7A-18 or SDCL 49-7A-19.

If you have procedural questions relative to this complaint, please contact me at 605-339-0529 or by email at exedir@sdonecall.com. Do not contact any members of the South Dakota One Call Notification Board to discuss this complaint. Board members may be involved in the Chapter 1-26 hearing to resolve of the complaint if a hearing is requested by either party.

Sincerely,



Larry L. Janes
Executive Director
South Dakota One Call

ENFORCEMENT COMMITTEE ACTION
OC09-007

**In the Matter of the Complaint filed by South Dakota Network, LLC, Sioux Falls,
South Dakota, against Larry's Electric, Inc., Pierre, South Dakota.**

FINDINGS:
OC09-007

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

The South Dakota Network, LLC claims Larry's Electric, Inc. failed to maintain a minimum horizontal clearance of eighteen inches between a marked underground facility and the cutting edge of mechanized equipment at a location in front of the State Library on August 26, 2009. South Dakota Network believes a violation of SDCL 49-7A-08 resulted.

Mr. Harris of Larry's Electric, Inc., in his reply, stated neither he nor any employee of Larry's Electric, Inc. was involved in the alleged activity in violation of One Call statutes.

After reviewing the complaint filed by South Dakota Network, LLC and the response from Larry's Electric, Inc. the enforcement committee finds sufficient evidence does not exist to hold Larry's Electric in violation of SDCL 49-7A.

COMMITTEE RECOMMENDATION
OC09-007

VIOLATION OF SOUTH DAKOTA SDCL 49-7A:

The Committee found probable cause does not exist to determine Larry's Electric Inc. violated SDCL 49-7A by failing to maintain a minimum horizontal clearance of eighteen inches between a marked underground facility and the cutting edge of any mechanized equipment at a location in front of the State Library on August 26, 2009.

PROPOSED PENALTY FOR THIS VIOLATION:

The committee recommends no penalty due to lack of probable cause.

**ACCEPTANCE OR REJECTION BY PARTIES
COMPLAINT OC09-007**

THE ENFORCEMENT COMMITTEE OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD PROPOSED A RESOLUTION IN COMPLAINT NUMBER OC09-007.

IF BOTH PARTIES INVOLVED IN THIS COMPLAINT ACCEPT THE COMMITTEE RESOLUTION, THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD, ACCORDING TO SDCL 49-7A-27 MUST ACCEPT THE RESOLUTION AS A FINAL DISPOSITION OF THE COMPLAINT.

IF EITHER PARTY INVOLVED IN THIS COMPLAINT REJECTS THE COMMITTEE RESOLUTION, AN EVIDENTIARY HEARING IS HELD TO RESOLVE THE COMPLAINT. A HEARING IS CONDUCTED AS A CONTESTED CASE UNDER CHAPTER 1-26. FOLLOWING THE HEARING, THE BOARD SHALL EITHER: DISMISS THE COMPLAINT FOR INSUFFICIENT EVIDENCE OR IMPOSE A PENALTY PURSUANT TO SDCL 49-7A-18 OR SDCL 49-7A-19.

PLEASE COMPLETE THE FOLLOWING AND BOTH RETURN TO THE ADDRESS BELOW AND SEND A COPY TO THE OTHER PARTY TO THIS CASE PRIOR TO THE CLOSE OF BUSINESS ON March 1, 2010, to:

**South Dakota One Call Notification Board
c/o Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501**

PURSUANT TO SDCL 15-6-55, FAILURE TO SUBMIT THE REQUESTED INFORMATION COULD RESULT IN A DEFAULT JUDGMENT AGAINST YOU. IF A PENALTY IS RECOMMENDED, COLLECTION ACTIONS COULD RESULT.

PARTY RESPONSE

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC09-007.

Signature - Larry's Electric

Date

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC09-007 AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC09-007.

Signature - Larry's Electric

Date

**ACCEPTANCE OR REJECTION BY PARTIES
COMPLAINT OC09-007**

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PARTY RESPONSE

I ACCEPT THE COMMITTEE RESOLUTION TO COMPLAINT OC09-007.

Signature – South Dakota Network, LLC

Date

I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC09-007 AND REQUEST A HEARING TO RESOLVE THE VIOLATION ALLEGED IN COMPLAINT OC09-007.

Signature – South Dakota Network, LLC

Date