

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

**IN THE MATTER OF THE COMPLAINT FILED)
BY NORTHWESTERN ENERGY, HURON,)
SOUTH DAKOTA, AGAINST SCOTT OLSON)
DIGGING, INC., HURON, SOUTH DAKOTA)**

**ORDER GRANTING CIVIL
COURT FILING**

OC10-008

On September 13, 2010, the South Dakota Public Utilities Commission (Commission) received a complaint from Northwestern Energy against Scott Olson Digging, Inc. The Complaint alleges Scott Olson Digging, Inc. began excavation prior to the legal start time in violation of SDCL 49-7A-5. On December 6, 2010, pursuant to SDCL 49-7A-22 a panel was appointed to make a recommendation to the South Dakota One Call Board regarding whether probable cause exists to believe the violation occurred as described in the Complaint (herein the Panel). The Panel met and determined probable cause exists to find a violation of SDCL 49-7A-5 occurred. In addition, and also pursuant to SDCL 49-7A-22 the Panel recommended a five-thousand dollars (\$5,000) penalty, with two thousand five hundred dollars (\$2,500) suspended if several conditions were met. In making its recommendation the Panel considered all factors in SDCL 49-7A-26. Neither party requested a hearing in this matter and pursuant to SDCL 49-7A-27 the Panel's recommendation was considered accepted by both. At its scheduled meeting of February 16, 2011, the South Dakota One Call Board, pursuant to SDCL 49-7A-27, reviewed the Panel's procedure, approved its findings and issued a Final Order regarding the same. Scott Olson Digging, Inc, failed to make payment, is out of compliance with the Board Order and the full Five Thousand Dollar (\$5,000) penalty is now due. On April 6, 2011 a demand letter was sent to Scott Olson Digging, Inc. pursuant to SDCL 49-7A-33. The One Call Board of South Dakota met on May 18, 2011 to consider this matter and hereby unanimously requests the Public Utilities Commission bring an action in the name of the State of South Dakota for recovery of the penalty pursuant to SDCL 49-7A-28. The One Call Board of South Dakota met on May 18, 2011 to consider this matter and hereby unanimously requests the Commission bring an action in the name of the State of South Dakota for recovery of the penalty pursuant to SDCL 49-7A-28.

At the May 31, 2011, 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-28. The Commission finds it is appropriate to bring an action to recover the One Call penalty of \$5,000.

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 OC10-008.

Dated at Pierre, South Dakota, this 17th day of June, 2011.

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>Ben Ardahl</u>
Date:	<u>6-17-11</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Steve Kolbeck

STEVE KOLBECK, Chairman

Gary Hanson

GARY HANSON, Commissioner

Chris Nelson

CHRIS NELSON, Commissioner