

**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**

OC10-006

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. damaged Northwestern Energy facilities while excavating yet did not notify the utility as required by SDCL 49-7A-12. In its October 27, 2010 reply, Scott Olson Digging, Inc. stated the line was to be relocated by Northwestern Energy and that it was in contact with a third party regarding the relocation. On October 28, 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-12 occurred. In addition, and also pursuant to SDCL 49-7A-22 the Panel recommended a one-thousand dollar (\$1,000) penalty. 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 requiring complete payment of the penalty within 30 days of service of the Order on Scott Olson Digging, Inc. Scott Olson Digging, Inc. failed to make payment and is out of compliance with the Board Order. 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 voted unanimously to request 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 49-7A-28. The Commission finds it is appropriate to bring an action to recover the One Call penalty of \$1,000.

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 OC10-006.

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><i>Jan Udahl</i></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