

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT
BY WATERTOWN MUNICIPAL UTILITIES
AGAINST STROMSETH CONSTRUCTION

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ORDER TO BRING ACTION PURSUANT
TO SDCL 49-7A-28

OC10-010

On December 3, 2010, the South Dakota Public Utilities Commission received a complaint from Watertown Municipal Utilities against Stromseth Construction. The complaint alleges excavation occurred at 7711 - 2nd Avenue SW., Watertown, South Dakota, prior to the start date of the South Dakota One Call locate ticket and that notice was not given after facility damage occurred as a result of the excavation. Stromseth Construction did not dispute the allegations in the complaint.

On January 10, 2011, 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 and 49-7A-12 occurred.

In addition, and also pursuant to SDCL 49-7A-22 the Panel recommended a one-thousand dollars (\$1,000) penalty for each violation to total a two-thousand dollar (\$2,000) 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 is 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 an Order regarding the same.

Stromseth Construction failed to make payment and is out of compliance with the Board Order. On April 18, 2011 a demand letter was sent to Stromseth Construction 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 as action in the name of the State of South Dakota for recovery of the penalty pursuant to SDCL 49-7A-28.

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.


Larry L. Janes, Executive Director

Date 5-19-2011

BY ORDER OF THE SD ONE-CALL BOARD:

Dated at Pierre, South Dakota,

this 18th day of May, 2011


Bleau LaFave
Chairman