

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT
BY OTTER TAIL POWER COMPANY
AGAINST CARLSON EXCAVATING

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ORDER ADOPTING ENFORCEMENT
PANEL RECOMMENDATION AND
TO CLOSE THE DOCKET

OC11-002

On June 7, 2011, the South Dakota Public Utilities Commission received a complaint from OtterTail Power Company (herein "OtterTail") against Carlson Excavating (herein "Carlson"). The complaint alleges Carlson did not wait the statutorily required time prior to excavation. Specifically, OtterTail arrived at the planned excavation site to locate facilities only to discover excavation had already occurred in violation of SDCL 49-7A-5.

Carlson replied to the complaint on June 20, 2011. Carlson admitted to excavation at the site at issue, and admitted a miscommunication occurred which resulted in the violation. The owner of Carlson met with its excavation foremen and initiated a plan to avoid future violations.

On July 13, 2011, pursuant to SDCL 49-7A-22 a panel of five One Call Board members (herein "Panel") convened. The Panel found probable cause exists to believe a violation of SDCL 49-7A-5 occurred.

The Panel found it proper to assess a Five Hundred Dollar (\$500) penalty against Carlson. The panel then recommended the entire Five Hundred Dollar (\$500) penalty be suspended unless Carlson is found guilty of a separate violation of SDCL 49-7A or ARSD Article 20:25 within the twelve months following the date of this Order. 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 October 13, 2011, the South Dakota One Call Board, pursuant to SDCL 49-7A-27, reviewed the Panel's procedure and approved its findings.

THE ONE CALL BOARD OF SOUTH DAKOTA HEREBY ORDERS, the terms and conditions as recommended by the Panel as final resolution of this complaint. The Panel's findings are attached hereto and shall be considered and fully incorporated herein; and it is

FURTHER ORDERED this docket shall be closed.

The South Dakota One-Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A, specifically 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, 49-7A-26.

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 10-14-2011

BY ORDER OF THE SD ONE-CALL BOARD:

Dated at Ft. Pierre, South Dakota,

this 13th day of October, 2011


Kurt Pfeifle
Chairman