

**BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD**

---

IN THE MATTER OF THE COMPLAINT ) ORDER ADOPTING ENFORCEMENT  
BY NORTHWESTERN ENERGY ) PANEL RECOMMENDATION AND  
AGAINST SPLIT ROCK ) CLOSING DOCKET  
CONTRACTING, INC. )

OC11-003

---

On July 11, 2011, the South Dakota Public Utilities Commission received a complaint from NorthWestern Energy (herein "NorthWestern") against Split Rock Contracting, Inc. (herein "Split Rock"). The complaint alleges Split Rock did not wait the statutorily required time prior to excavation. Specifically, NorthWestern arrived at the planned excavation site on June 1, 2011 to locate facilities pursuant to a locate ticket with an excavation start date of June 2, 2011. On June 1, NorthWestern alleges excavation had already occurred and was complete.

Split Rock replied to the complaint on August 1, 2011. The reply states Split Rock originally requested facilities to be marked on April 24, 2011. The company explains it then requested facilities to be relocated on May 31, 2011. Although Split Rock does not specify when, it states it met with NorthWestern regarding the location of facilities prior to excavation. The company does not address whether it performed excavation outside the legally proper time. Rather, it stated "all marks were present from the first locate request."

On August 30, 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 accessed a One Thousand Dollar (\$1,000) penalty against Split Rock and suspend Five Hundred Dollars (\$500) of the penalty if the following two conditions are met: (i) Split Rock is not found guilty of an additional violation of SDCL 49-7A or ARSD Article 20:25 within the twelve months following the date of this Order and (ii) if Split Rock pays remaining un-suspended Five Hundred Dollars (\$500) within thirty days of receipt 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 it 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 that complete payment of the Five Hundred Dollar (\$500) penalty shall be made within thirty days of issuance of this Order; 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 13<sup>th</sup> day of October, 2011



Kurt Pfeifle  
Chairman