

**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 SPLIT ROCK CONTRACTING,)
INC., HURON, SOUTH DAKOTA)**

**ORDER TO BRING CIVIL
ACTION**

OC11-003

On July 11, 2011, the South Dakota One Call Board (Board) received a complaint from NorthWestern Corporation d/b/a NorthWestern Energy (NorthWestern) against Split Rock Contracting, Inc. (Split Rock). Split Rock replied to the complaint on August 1, 2011. On August 30, 2011, pursuant to SDCL 49-7A-22 a panel of five Board members (Panel) convened. The Panel found probable cause exists to believe a violation of SDCL 49-7A-5 occurred. The Panel assessed a One Thousand Dollar (\$1,000) penalty against Split Rock and suspended Five Hundred Dollars (\$500) of the penalty if two conditions were met, including the condition that the unsuspended \$500 portion of the penalty be paid within 30 days following receipt of the Board's Order in the matter. Neither party requested a hearing, and accordingly, pursuant to SDCL 49-7A-27, the Panel's recommendations were considered accepted by both. At its scheduled meeting on October 13, 2011, the Board, pursuant to SDCL 49-7A-27, issued its Order adopting the terms and conditions recommended by the Panel. Split Rock violated the terms and conditions of the Order and the suspension when it failed to make payment. The full \$1,000 is now due, and Split Rock is out of compliance with the Board's Order. On March 2, 2012, a demand letter was sent to Split Rock pursuant to SDCL 49-7A-33. The Board met on May 17, 2012, and unanimously voted to request that the South Dakota Public Utilities Commission (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 Commission has jurisdiction over this matter pursuant to SDCL 49-7A-28. At its regular meeting on June 5, 2012, the Commission voted unanimously to bring an action to recover the penalty of \$1,000 as ordered by the Board. It is therefore

ORDERED, that action be brought in the name of the State of South Dakota to recover the One Call penalty of One Thousand Dollars (\$1,000) as ordered by the Board.

Dated at Pierre, South Dakota, this 6 day of June, 2012.

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>Joy Leung</u>
Date: <u>June 6, 2012</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Chris Nelson

CHRIS NELSON, Chairman

Kristie Fiegen

KRISTIE FIEGEN, Commissioner

Gary Hanson

GARY HANSON, Commissioner