

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

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IN THE MATTER OF THE COMPLAINT	)	ORDER ADOPTING
BY ACTIVE CARE CHIROPRACTIC	)	ENFORCEMENT PANEL
AGAINST MONTANA-DAKOTA	)	RECOMMENDATION AND
UTILITIES CO.	)	TO DISMISS AND CLOSE
	)	DOCKET

OC11-006

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On August 18, 2011, the South Dakota Public Utilities Commission received a complaint from Active Care Chiropractic (herein "Active Care") against Montana-Dakota Utilities Co. (herein "MDU"). The complaint alleges MDU failed to mark lines as required by law and as a result a telephone contractor struck an MDU line with a boring tool. The hit resulted in loss of business for Active Care.

MDU replied on August 29, 2011. The reply stated, "Montana Dakota Utilities had located our facilities on the other side of the road. Our insurance provider will be contacting Dr. Nathan Kadlec."

On September 19, 2011, pursuant to SDCL 49-7A-22 a panel of five One Call Board members (herein "Panel") convened. The Panel met to determine whether probable cause exists to believe the violation occurred as described in the complaint.

The Panel found, from the evidence submitted, probable cause does not exist to believe a violation of South Dakota One Call statute or rule occurred.

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 dismissed and 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.

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**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



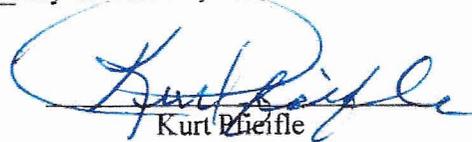
Larry L. Janes, Executive Director

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