

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT)	ENFORCEMENT PANEL
BY ACTIVE CARE CHIROPRACTIC)	RECOMMENDATION TO
AGAINST MONTANA-DAKOTA)	THE SD ONE CALL
UTILITIES CO.)	BOARD
)	
)	OC11-006

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 four 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. The Panel voted to dismiss the complaint.

The Panel recommends the South Dakota One Call Board accept its findings and recommendations herein. If either party to this Complaint disagrees or objects to the recommendations or findings herein, a hearing may be requested. To request a hearing you must reply within twenty days from the date of service of this notice. Failure to request a hearing is considered acceptance of the recommendations and findings herein.

The South Dakota One-Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A and ARSD 20:25.

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, by facsimile by first class mail, or by other electronic means.


Larry L. Janes, Executive Director

Date 9-19-2011