

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT)	ENFORCEMENT PANEL
FILED BY NORTHERN NATURAL GAS)	RECOMMENDATION TO
COMPANY, HARRISBURG, SOUTH)	THE SOUTH DAKOTA
DAKOTA AGAINST WILBERT PLIENIS,)	ONE CALL BOARD
COLTON, SOUTH DAKOTA)	

OC11-011

On October 31, 2011, the South Dakota Public Utilities Commission received a complaint from Northern Natural Gas Company (herein "Northern Natural") against Wilbert Plienis. The complaint alleges Mr. Plienis failed to call South Dakota One Call prior to excavation in violation of SDCL 49-7A-5.

On November 10, 2011 Mr. Plienis replied. He explains the history of his interactions with Northern Natural. He admits Northern Natural told him to call 811 and further admits he forgot to do so. After realizing the error, however, he contacted Northern Natural to inform them directly of his failure to call. As a result of the contact Northern Natural was on site during the excavation.

On December 16, 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 probable cause exists to believe a violation of SDCL 49-7A-5 occurred due to Mr. Plienis's reply. The Panel found the violation to be unintentional and further found it proper to assess a Five Hundred Dollar (\$500) penalty. The Panel found it proper, however, to conditionally suspend the whole Five Hundred Dollar (\$500) penalty because: there was minimal risk to the public, no damage was done, Mr. Plienis has no record of previous compliance issues, he admitted the violation and promises to comply in the future. See SDCL 49-7A-26. If, however, Mr. Plienis is found guilty of a One Call violation within the next 12 months, the whole Five Hundred Dollar (\$500) penalty will be immediately due and owing. **At this time no penalty funds are due and owing.**

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 12-16-2011

**REQUEST FOR A HEARING
COMPLAINT OC11-011**

**I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC11-011
AND REQUEST A HEARING.**

Signature – Northern Natural Gas Company

Date

**I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC11-011
AND REQUEST A HEARING.**

Signature – Wilbert Plienis

Date

**YOUR REQUEST FOR A HEARING MUST BE SENT TO ALL OTHER
PARTIES INCLUDING:**

**SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
C/O SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
500 E. CAPITOL AVE.
PIERRE, SD 57501-5070**

**Failure to request a hearing, results in acceptance of the Enforcement
Committee's recommendation. In that case, the One Call Board will Order the
recommendation as the final disposition of this Complaint.**