

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT) ENFORCEMENT PANEL
FILED BY MONTANA-DAKOTA UTILITIES CO) RECOMMENDATION TO
AGAINST EXCAVATING SPECIALISTS,) THE SD ONE CALL BOARD,
RAPID CITY, SD FOR AN INCIDENT)
OCCURRING ON MAY 15, 2012 IN)
RAPID CITY, SOUTH DAKOTA) OC12-010

On June 26, 2012 the South Dakota Public Utilities Commission received a complaint from Montana-Dakota Utilities Co. (herein "MDU") against Excavating Specialists of Rapid City, SD. The complaint alleges Excavating Specialists performed excavation without proper locates.

A copy of the complaint was sent to Excavating Specialists on July 2, 2012. Excavating Specialists responded to the Complaint on July 16, 2012. In its response Excavating Specialists acknowledged it excavated outside its ticket.

On July 25, 2012, 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 sufficient evidence was presented to determine probable cause exists to believe a violation of SDCL 49-7A-5 occurred. Specifically, the Panel found Excavating Specialists performed excavation without a valid ticket. Due to the length of time the company has been in business and its experience in the field the Panel did not believe the violation could have been unintentional. The Panel found the violation to be intentional.

The Panel found it proper to assess a One Thousand Dollar (\$1,000) penalty due to the degree of danger when excavating around natural gas facilities. The Panel found it proper, however, to conditionally suspend Five Hundred Dollars (\$500) of the penalty because there have not been any prior complaints against Excavating Specialists.

The suspension conditions are as follows:

- (i) Excavating Specialists shall make payment of the **Five Hundred Dollar (\$500) unsuspended portion** of the penalty within thirty days of issuance of the final SD One Call Board Order.
- (ii) Excavating Specialists must not be found guilty of a One Call violation in the next 12 months.

If any of the conditions are not met, the entire One Thousand Dollar Penalty (\$1,000) will be immediately 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 7-26-2012