BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT FILED BY WATERTOWN MUNICIPAL UTILITIES AGAINST STROMSETH CONSTRUCTION FOR AN INCIDENT OCCURING ON JULY 28, 2012 IN WATERTOWN, SOUTH DAKOTA	) ORDER ADOPTING) ENFORCEMENT PANEL) RECOMMENDATION, TO) PURSUE COLLECTION ACTION) IF NECESSARY AND TO CLOSE) DOCKET)) OC12-012

On July 31, 2012 the South Dakota Public Utilities Commission received a complaint from Watertown Municipal Utilities (herein "Watertown") against Stromseth Construction (herein "Stromseth") of Watertown, SD. The complaint alleges Stromseth performed excavation without proper locates and failed to properly expose the facility.

A copy of the complaint was sent to Stromseth on August 3, 2012. Stromseth did not respond.

On August 29, 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 violations occurred as described in the complaint.

I. VIOLATIONS OF SDCL 49-7A-5

The Panel found sufficient evidence was presented to determine probable cause exists to believe two separate violations of SDCL 49-7A-5 occurred. Specifically, the Panel found Stromseth performed excavation without a valid ticket on Saturday, July 28 and Sunday July 29, 3012. Based on the existence of previous Complaints against Stomseth, and its lack of response to the Complaint, the Panel found the violations to be intentional.

JULY 28 VIOLATION: The Panel found it proper to recommend a Five Thousand Dollar ($5,000) penalty due to the existence of previous complaints, the degree of danger when excavating around natural gas facilities and the failure of Stromseth to take steps to prevent future violations. (SDCL 49-7A-19) The Panel found it proper, however, to conditionally suspend Two Thousand, Five Hundred Dollars ($2500) of the penalty.

The recommended suspension conditions are as follows:

(i) Stromseth shall make payment of the **Two Thousand, Five Hundred Dollar ($2,500) unsuspended portion** of the penalty within thirty days of issuance of this Order.
(ii) Stromseth must not be found guilty of a One Call violation in the next 12 months.
(iii) Stromseth shall attend a spring 2013 South Dakota One Call excavator meeting.
(iv) Stromseth shall conduct and document an in-house gas safety meeting for its employees. The meeting shall be held within 30 days of this Order. Documentation shall include the printed and signed names of the meeting participants, details of the material discussed along with the date and length of the

meeting. Documentation shall be submitted to the Executive Director of South Dakota One Call.

If any of the conditions are not met, the entire Five Thousand Dollar Penalty ($5,000) will be immediately due and owing.

JULY 29 VIOLATION: The Panel found it proper to recommend a **Five Thousand Dollar ($5,000) penalty** due to the existence of previous complaints, the degree of danger when excavating around natural gas facilities and the failure of Stromseth to take steps to prevent future violations. (SDCL 49-7A-19)

II. VIOLATION OF ARSD 20:25:03:05.03

The Panel found sufficient evidence was presented to determine probable cause exists to believe a violation of ARSD 20:25:03:05.03 occurred. Specifically, the Panel found Stromseth failed to properly expose facilities in compliance with the administrative rule. Based on the existence of previous Complaints against Stomseth, and its lack of response to the Complaint, the Panel found the violation to be intentional.

The Panel found it proper to recommend a **Five Thousand Dollar ($5,000) penalty** due to the existence of previous complaints, the degree of danger when excavating around natural gas facilities and the failure of Stromseth to take steps to prevent future violations. (SDCL 49-7A-19)

At its scheduled meeting of October 3, 2012, the South Dakota One Call Board, pursuant to SDCL 49-7A-27, reviewed the Panel's procedure and approved it findings. As such, a Twelve Thousand Five Hundred Dollar penalty ($12,500) is due within thirty days from issuance of this Order. If the conditions above are not met, an additional Two Thousand, Five Hundred ($2,500) will be added to the total penalty.

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, if the penalty is not paid, the Board shall pursue any rights it has under the law regarding collection; 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.

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 10-4-2012

BY ORDER OF THE SD ONE-CALL BOARD:

Dated at Ft. Pierre, South Dakota,

this 3rd day of Oct., 2012

Kurt Pfeifle
Chairman