BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT FILED BY MIDAMERICAN ENERGY COMPANY, URBANDALE, IOWA, AGAINST SELECT BUILDERS, HARRISBURG, SOUTH DAKOTA FOR AN INCIDENT OCCURRING ON APRIL 18, 2013, IN SIOUX FALLS, SOUTH DAKOTA	)	ENFORCEMENT PANEL RECOMMENDATION TO THE SD ONE CALL BOARD OC13-014

On July 10, 2013, the South Dakota Public Utilities Commission received a complaint from MidAmerican Energy Company, Urbandale, Iowa, against Select Builders of Harrisburg, South Dakota. The complaint alleges that on or about April 18, 2013, Select Builders dug without a valid locate ticket.

A copy of the complaint was sent to Select Builders on July 10, 2013. Select Builders responded to the Complaint on July 22, 2013. In its response, Select Builders admits the incident occurred.

On August 29, 2013, 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 Select Builders failed to obtain a locate ticket prior to excavation. The Panel did not find the violation to be intentional.

Per SDCL 49-7A-26, the Panel found it proper to assess a Five Hundred Dollars ($500) penalty for this first time offense. Based, however, on Select Builders' safe excavation history, the Panel found it proper to conditionally suspend Two Hundred Fifty Dollars ($250) of the penalty under the following conditions:

(i) Select Builders shall make payment of the Two Hundred Fifty Dollar ($250) unsuspended portion of the penalty within thirty days of issuance of the final SD One Call Board Order.

(ii) Select Builders shall attend an excavating seminar in the spring of 2014.

(iii) Select Builders shall conduct an in-house safety meeting for its employees to review the One Call laws. The meeting shall be held within 30 days of the final One Call Order. Documentation shall include the printed and signed names of meeting participants, details of the material discussed, and the date and length of the meeting. Documentation shall be submitted to the Executive Director of South Dakota One Call within that 30 day period.

(iv) Select Builders must not be found guilty of a One Call violation within the next 12 months.

If any of the conditions are not met, the entire Five Hundred Dollar Penalty ($500) 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 a party 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 August 29, 2013