BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT FILED BY NORTHWESTERN ENERGY, HURON, SOUTH DAKOTA, AGAINST CENTURYLINK, SIOUX FALLS, SOUTH DAKOTA FOR AN INCIDENT OCCURRING ON JULY 17, 2013, AT 1125 S. ANDERSON ST., MITCHELL, S.D., FOR LOCATE TICKET 131960205	)	ENFORCEMENT PANEL RECOMMENDATION TO THE SD ONE CALL BOARD OC13-017

On July 23, 2013, the South Dakota Public Utilities Commission received a complaint from NorthWestern Energy, Huron, South Dakota, against CenturyLink of Sioux Falls, South Dakota. The complaint alleges that on or about July 17, 2013, CenturyLink failed to locate its facilities within the time required by South Dakota One Call law.

A copy of the complaint was sent to CenturyLink on July 23, 2013. CenturyLink responded to the Complaint on August 12, 2013. In its response, CenturyLink disputes 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. Dockets OC13-015, OC13-016, and OC13-017 were discussed simultaneously. The Panel found sufficient evidence was presented to determine probable cause exists to believe a violation of SDCL 49-7A-8 occurred. Specifically, the Panel found CenturyLink failed to locate its facilities in the proposed excavation area within 48 hours after receipt of the notice. The Panel found the violation to be intentional.

Pursuant to 49-7A-26, the Panel found it proper to assess a penalty of $2,000 for this offense. However, the Panel found it proper to conditionally suspend $1,000 of the penalty under the following conditions:

(i) CenturyLink shall make payment of the $1,000 portion, which was not suspended, of the penalty within thirty days of issuance of the final SD One Call Board Order.

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

(iii) CenturyLink shall conduct an in-house safety meeting for its employees and subcontractors with whom CenturyLink contracts to complete locates 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) CenturyLink 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 $2,000 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 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