

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT)	ENFORCEMENT PANEL
FILED BY CROOKS MUNICIPAL)	RECOMMENDATION TO
UTILITIES, CROOKS, SOUTH DAKOTA,)	THE SD ONE CALL BOARD
AGAINST THOMAS POWERS, RENNER,)	
SOUTH DAKOTA FOR AN INCIDENT)	OC13-022
OCCURRING ON SEPTEMBER 30, 2013,)	
AT 47467 258TH ST., RENNER, S.D.)	

On October 2, 2013, the South Dakota Public Utilities Commission received a complaint from Crooks Municipal Utilities, Crooks, South Dakota against Thomas Powers of Renner, South Dakota. The complaint alleges that on or about September 30, 2013, Thomas Powers dug without a valid locate ticket.

A copy of the complaint was sent to Mr. Powers on October 2, 2013. Thomas Powers responded to the Complaint on October 17, 2013. In his response, Mr. Powers admits he excavated without first obtaining a locate ticket.

On November 8, 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 Thomas Powers failed to obtain a locate ticket prior to conducting excavation for the purpose of installing a mailbox, causing damage to a gas line. The Panel found the violation to be intentional.

The Panel found it proper to assess a Five Hundred Dollars (\$500) penalty for this first time offense. However, the Panel found it proper to conditionally suspend Five Hundred Fifty Dollars (\$500) of the penalty under the following conditions:

- (i) Thomas Powers must not be found guilty of a One Call violation within the next 12 months.

If the condition is 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 November 11, 2013