

**BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD**

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**IN THE MATTER OF THE COMPLAINT  
FILED BY MIDAMERICAN ENERGY  
COMPANY, URBANDALE, IOWA,  
AGAINST FIRST DAKOTA  
HORTICULTURE, SIOUX FALLS,  
SOUTH DAKOTA, FOR AN INCIDENT  
OCCURRING ON AUGUST 13, 2013, AT  
221 S. SIXTH AVE., BRANDON, S.D.**

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**OC13-025**

**ORDER ADOPTING  
ENFORCEMENT PANEL  
RECOMMENDATION TO  
THE SD ONE CALL BOARD  
AND TO PURSUE  
COLLECTION ACTION IF  
NECESSARY**

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On October 11, 2013, the South Dakota Public Utilities Commission received a complaint from MidAmerican Energy Company (MidAmerican), Urbandale, Iowa against First Dakota Horticulture (First Dakota) of Sioux Falls, South Dakota. The complaint alleges that on or about August 13, 2013, First Dakota dug without a valid locate ticket. A copy of the complaint was sent to First Dakota on October 11, 2013. First Dakota responded to the Complaint on July 23, 2013.

On September 27, 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 determined that probable cause did exist to believe a violation of SDCL 49-7A-5 occurred and found that the violation was intentional.

The Panel found it proper to assess a penalty of \$1,000.00 with \$750 suspended on certain conditions as listed below.

The recommended suspension conditions are as follows:

- (i) First Dakota shall make payment of the \$250 portion of the penalty which was not suspended within 30 days of issuance of this Order. This condition has been satisfied.
- (ii) First Dakota shall attend an excavating seminar in the spring of 2014.
- (iii) First Dakota 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. This condition has been satisfied.
- (iv) First Dakota 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 One Thousand Dollar Penalty (\$1,000.00) will be immediately due and owing.

At its regularly scheduled meeting on February 19, 2014, the South Dakota One Call Board, pursuant to 49-7A-27, reviewed the Panel's procedure and approved its findings.

It is therefore:

ORDERED, that the South Dakota One Call Board adopts the recommendations of the Panel as a final resolution of this complaint. The Panel's findings are attached hereto and shall be considered fully incorporated herein; it is further

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

The South Dakota One-Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A, specifically SDCL 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, and 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, by facsimile by first class mail, or by other electronic means.

  
Larry L. Janes, Executive Director

Date March 3, 2014

BY ORDER OF THE SD ONE-CALL BOARD:

Dated at SiouxFalls, South Dakota  
This 21 day of February, 2014

  
Dan Kaiser, Vice Chairman