

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT)	ENFORCEMENT PANEL
FILED BY MIDAMERICAN ENERGY)	RECOMMENDATION TO
COMPANY, URBANDALE, IOWA,)	THE SD ONE CALL BOARD
AGAINST FIRST DAKOTA)	
HORTICULTURE, SIOUX FALLS, SOUTH)	OC13-025
DAKOTA, FOR AN INCIDENT)	
OCCURRING ON AUGUST 13, 2013, AT)	
221 S. SIXTH AVE., BRANDON, S.D.)	

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. In its response, First Dakota admits an employee of First Dakota did excavate without a valid locate ticket.

On July 30, 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 First Dakota failed to obtain a locate ticket prior to excavation, resulting in damage to a gas line operated by MidAmerican. The Panel did find the violation to be intentional.

The Panel found it proper to assess a \$1,000 penalty for this first time offense. Based, however, on First Dakota's safe excavation history, the Panel found it proper to conditionally suspend \$750 of the penalty under the following conditions:

- (i) First Dakota Horticulture shall make payment of the **\$250 unsuspending portion** of the penalty within 30 days of issuance of the final SD One Call Board Order.
- (ii) First Dakota Horticulture shall attend an excavating seminar in the spring of 2014.
- (iii) First Dakota Horticulture 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) First Dakota Horticulture 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 \$1,000 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.

November 11, 2013
Larry L. Janes, Executive Director

Date 