

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT)
FILED BY MONTANA-DAKOTA)
UTILITIES CO., RAPID CITY, SOUTH)
DAKOTA, AGAINST RCS)
CONSTRUCTION, INC., RAPID CITY,)
SOUTH DAKOTA, FOR AN INCIDENT)
OCCURRING ON OCTOBER 24, 2013, AT)
1111 ZINC ST., RAPID CITY, S.D.)

AMENDED
ENFORCEMENT PANEL
RECOMMENDATION TO
THE SD ONE CALL BOARD

OC13-029

On November 13, 2013, the South Dakota Public Utilities Commission received a complaint from Montana-Dakota Utilities Co., Rapid City, South Dakota against RCS Construction, Inc. (RCS) of Rapid City, South Dakota. The complaint alleges that on or about October 24, 2013, RCS dug without a locate ticket.

A copy of the complaint was sent to RCS on November 13, 2013. RCS responded to the Complaint on December 2, 2013. In its response, RCS asserted that it did have a locate request, but that the locate request had expired.

On December 18, 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 RCS performed excavation without a valid locate ticket, resulting in damage to a gas line operated by Montana-Dakota Utilities Co. The Panel did find the violation to be intentional.

The Panel found it proper to assess a \$1,000 penalty for this offense. The Panel found it proper to suspend \$250 of the penalty under the following conditions:

- (i) RCS shall make payment of the **\$750 unsuspending portion** of the penalty within 30 days of issuance of the final SD One Call Board Order.
- (ii) RCS shall attend an excavating seminar in the spring of 2014.
- (iii) RCS 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) RCS must not be found to have committed another violation of a One Call rule or regulation within the 12 months of the SD One Call Board Order.

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.


Larry L. Janes, Executive Director

Date January 17, 2014