

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT)	ENFORCEMENT PANEL
FILED BY MONTANA-DAKOTA)	RECOMMENDATION TO
UTILITIES CO., RAPID CITY, SOUTH)	THE SD ONE CALL BOARD
DAKOTA, AGAINST PROFESSIONAL)	
EXCAVATING, INC., RAPID CITY,)	OC13-032
SOUTH DAKOTA, FOR AN INCIDENT)	
OCCURRING ON NOVEMBER 19, 2013,)	
AT 4823 MISTY WOODS LN., RAPID)	
CITY, S.D.)	

On December 18, 2013, the South Dakota Public Utilities Commission received a complaint from Montana-Dakota Utilities Co., Rapid City, South Dakota against Professional Excavating, Inc. of Rapid City, South Dakota. The complaint alleges that on or about December 18, 2013, Professional Excavating, Inc. dug without a locate ticket.

A copy of the complaint was sent to Professional Excavating, Inc. on December 19, 2013. Professional Excavating, Inc.. responded to the Complaint on January 6, 2014. In its response, Professional Excavating, Inc. did not dispute the complaint. Professional Excavating, Inc. stated the locate was missed, and it has changed the company policy to make sure no excavation takes place prior to starting a job. The foreman in charge of specific sites has to have a hard copy of the locate ticket prior to starting.

On January 14, 2014, 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 Professional Excavating, Inc.. preformed 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 second offense within twelve months. The Panel found it proper to suspend \$250 of the penalty under the following conditions:

- (i) Professional Excavating, Inc. shall make payment of the **\$750 unsuspended portion** of the penalty within 30 days of issuance of the final SD One Call Board Order.
- (ii) Professional Excavating, Inc. shall attend an excavating seminar in the spring of 2014.
- (iii) Professional Excavating, Inc. 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) Professional Excavating, Inc.. 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 1-31-2014

**REQUEST FOR A HEARING
COMPLAINT OC13-032**

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC13-032 AND
REQUEST A HEARING.**

Signature – Professional Excavating

Date

**I REJECT THE PANEL RESOLUTION TO COMPLAINT OC13-032 AND
REQUEST A HEARING.**

Signature – Montana-Dakota Utilities Co.

Date

**YOUR REQUEST FOR A HEARING MUST BE SENT TO ALL OTHER
PARTIES INCLUDING:**

**SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
C/O SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
500 E. CAPITOL AVE.
PIERRE, SD 57501-5070**

**Failure to request a hearing will result in acceptance of the Enforcement Panel's
Recommendation by the South Dakota One Call Board. The Board will then
Order the Recommendation as the final disposition of this Complaint.**