

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 PROFESSIONAL)
EXCAVATING, INC., RAPID CITY,)
SOUTH DAKOTA, FOR AN INCIDENT)
OCCURRING ON NOVEMBER 19, 2013,)
AT 4823 MISTY WOODS LN., RAPID)**

OC13-032

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

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. (herein "Professional Excavating") dug without a locate ticket. A copy of the complaint was sent to Professional Excavating on December 19, 2013. A response from Professional Excavating was received on January 6, 2014.

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 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 \$250 suspended on certain conditions as listed below.

The recommended suspension conditions are as follows:

- (i) Professional Excavating shall make payment of the \$750 unsuspended portion of the penalty within 30 days of issuance of the final SD One Call Board Order. This condition has been satisfied.
- (ii) Professional Excavating shall attend an excavating seminar in the spring of 2014.
- (iii) Professional Excavating 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 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 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 Sioux Falls, South Dakota
This 21 day of February, 2014


Dan Kaiser, Vice Chairman