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 RAPID CONSTRUCTION CO. LLC, RAPID CITY, SOUTH DAKOTA, FOR AN INCIDENT OCCURRING ON FEBRUARY 20, 2014, AT FAR WEST END OF COBALT DRIVE, RAPID CITY, S.D.	)	**OC14-003** **ORDER ADOPTING ENFORCEMENT PANEL RECOMMENDATION TO THE SD ONE CALL BOARD AND TO PURSUE COLLECTION ACTION IF NECESSARY**

On February 27, 2014, the South Dakota Public Utilities Commission received a complaint from Montana-Dakota Utilities Co. (Montana-Dakota), Rapid City, South Dakota Rapid Construction Co. LLC (Rapid Construction) of Rapid City, South Dakota. The complaint alleges that on or about February 20, 2014, Rapid Construction dug prior to the authorized start date and time on the locate ticket. Rapid Construction responded to the Complaint on March 24, 2014.

On April 10, 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 $750.00 with $500.00 suspended on certain conditions as listed below.

The recommended suspension conditions are as follows:

(i) Rapid Construction shall make payment of the $250.00 portion of the penalty which was not suspended within 30 days of issuance of this Order.
(ii) Rapid Construction shall attend an excavating seminar in the spring of 2015.
(iii) Rapid Construction 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) Rapid Construction must not be found to have committed a One Call violation within the next 12 months.

If any of the conditions are not met, the entire $750.00 Penalty will be immediately due and owing.

At its regularly scheduled meeting on May 14, 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 May 20, 2014

BY ORDER OF THE SD ONE-CALL BOARD:

Dated at Pierre, South Dakota
This 14th day of May, 2014

Erin Hayes, Chairman