

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

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IN THE MATTER OF THE COMPLAINT )  
FILED BY MITCHELL TELECOM, )  
MITCHELL, SOUTH DAKOTA, )  
AGAINST SCHOENFELDER )  
CONSTRUCTION, MITCHELL, SOUTH )  
DAKOTA, FOR AN INCIDENT )  
OCCURRING ON JUNE 10, 2014, )  
AT NORTH IOWA AVE AND WEST 8TH )  
AVE., MITCHELL, S.D. )

OC14-013

ORDER ADOPTING  
ENFORCEMENT PANEL  
RECOMMENDATION AND  
TO PURSUE COLLECTION  
ACTION IF NECESSARY

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On June 25, 2014, the South Dakota Public Utilities Commission received a complaint from Mitchell Telecom, Mitchell, South Dakota against Schoenfelder Construction of Mitchell, South Dakota. The complaint alleges that on or about June 10, 2014, Schoenfelder Construction performed excavation without maintaining a minimum horizontal clearance of eighteen inches between a marked facility and the cutting edge of any mechanical equipment.

On July 30, 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 a violation of SDCL 49-7A-8 occurred. Specifically, the Panel found Schoenfelder Construction performed excavation without maintaining the requisite eighteen-inch clearance. The Panel found the violation to be intentional.

The Panel recommended a penalty of Seven Hundred Fifty Dollars (\$750) with Five Hundred Dollars (\$500) of the penalty suspended on certain conditions. The recommendation was forwarded to Schoenfelder Construction on August 6, 2014.

At its scheduled meeting on August 27, 2014, the South Dakota One Call Board ("Board"), pursuant to 49-7A-27, reviewed the Panel's procedure and approved its findings.

**A total of Two Hundred Fifty Dollars (\$250) is due within thirty days of the issuance of this Order.**

The suspension conditions are as follows.

- 1) Schoenfelder Construction shall make payment of the **Two Hundred Fifty Dollar (\$250) unsuspended portion** of the penalty within thirty days of issuance of the final SD One Call Board Order.
- 2) Schoenfelder Construction shall attend an excavating seminar in the spring of 2015.

- 3) Schoenfelder 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 thirty days of the final One Call Order.
- 4) Schoenfelder Construction must not be found to have committed a violation of SDCL 49-7A or ARSD 20:25 within the next twelve months.

If any of the conditions are not met, the entire Seven Hundred Fifty Dollar Penalty (\$750) will be immediately due and owing.

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

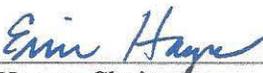
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile by first class mail, or by other electronic means.

  
Larry L. Janes, Executive Director

Date 9-10-2014

BY ORDER OF THE SD ONE-CALL BOARD:

Dated at Pierre, South Dakota  
This 27th day of August, 2014

  
Erin Hayes, Chairman