

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

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IN THE MATTER OF THE COMPLAINT ) FILED BY AGK ELECTRIC, VERMILLION, ) SOUTH DAKOTA, AGAINST CITY OF ) VERMILLION, VERMILLION, SOUTH ) DAKOTA, FOR AN INCIDENT ) OCCURRING ON OCTOBER 10, 2014, AT ) THE 612 N. NORBECK ST., VERMILLION, ) S.D. ) )	ENFORCEMENT PANEL RECOMMENDATION TO THE SD ONE CALL BOARD  OC14-033
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On December 29, 2014, the South Dakota Public Utilities Commission received a complaint from AGK Electric, Vermillion, South Dakota against The City of Vermillion, South Dakota (Vermillion). The complaint alleges that on or about October 10, 2014, Vermillion failed to locate its facilities within the time required by South Dakota One Call law.

A copy of the complaint was sent to Vermillion on December 30, 2014. Vermillion responded to the Complaint on or about January 7, 2015. In its response, Vermillion disputes the violation.

On January 27, 2015, 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-8 occurred. In making its determination, the Panel referenced South Dakota Attorney General Opinion #08-07. Specifically, the Panel found Vermillion failed to locate its facilities in the proposed excavation area within 48 hours after receipt of the notice. The Panel did not find the violation to be intentional.

The Panel found it proper to assess a \$1,000.00 penalty for this offense. However, the Panel found it proper to conditionally suspend \$850 of the penalty under the following conditions:

- (i) Vermillion shall make payment of the \$150.00 unsuspending portion of the penalty within thirty days of issuance of the final SD One Call Board Order.
- (ii) Vermillion shall attend an excavating seminar in the spring of 2014.
- (iii) Vermillion shall conduct an in-house safety meeting with its subcontractor to review the One Call laws. The meeting shall be held within 30 days of the final One Call Order, unless such meeting has occurred prior to the issuance of the Order, but subsequent to the violation. 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) Vermillion must not be found guilty of a One Call violation within the next 12 months, excluding currently pending violations.

If any of the conditions are not met, the entire \$1,000.00 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 1-30-2015