

SOUTH DAKOTA ONE CALL NOTIFICATION BOARD MEETING

July 17, 2008

Chairman Ed Anderson called the South Dakota One Call Notification Board meeting to order at 9:30 AM in the Conference Room at the AmericInn in Fort Pierre, SD.

Board Members in attendance forming a quorum: Ed Anderson, Jerry Schroeder, Doug Larson, Bleau LaFave, Kurt Pfeifle, Todd Chambers, Erin Hayes, & Eugene Solseth. Board members absent: Paul Lowe, Terry Larson, & Kevin Kouba. Also in attendance: Larry Englerth, Executive Director to the South Dakota One Call Board, Kara Semmler, legal counsel to the South Dakota One Call Board, Steve Kolbeck, South Dakota Public Utilities Commissioner and Karla McNamara, One Call Systems, Inc.

Executive Director requested that Mapping report be added to the agenda under 5a (Operations) and the Mandatory White Lining be added under 7g (Request for future rules consideration). A motion was made by Bleau LaFave and seconded by Kurt Pfeifle to approve meeting agenda as modified. **Motion Carried by unanimous vote**

A motion was made by Kurt Pfeifle and seconded by Doug Larson to approve the minutes from the Board meeting on February 19, 2008. **Motion Carried by unanimous vote**

Financial Report for the fiscal year 2008 was reviewed by the Board reflecting actual revenues/expenditures for the complete fiscal year. The Board also reviewed the itemized expenditures for the period of February through June of 2008. A proposed budget for fiscal year 2009 was presented along with budget analysis of fiscal year 2008 and comparative expenditure and revenue patterns for the past five years. The proposed budget reflect a significant deficit resulting from reduced ticket volumes of 3.3% for this fiscal year and a reduction in ticket transmission of 5.9% which result in a continued improvement of 3.2% in the locate request to ticket transmission ratio. A motion was made by Kurt Pfeifle and seconded by Bleu LaFave to approve the financial report as submitted. **Motion Carried by unanimous vote.**

The Board discussed a potential increase in the ticket price of \$0.10 per outgoing transmission to be effective on January 1, 2009. The Board requested the executive director to draft a brief summary of the reasons for the proposed increase and to submit this to Board members so that they could provide advance notice to their constituency. The Board also requested the Executive Director to include the proposed increase on the agenda of the next Board meeting.

The SAS 70 audit report conducted by R.D. Hoag and Associates on One Call Systems was submitted to the Board for review. This report has been provided to Heather Forney, Deputy Executive Director at the SD PUC and also submitted to the South Dakota State Auditor's office for review and comment. At this point, no comments have been received.

The following operational items were discussed:

1. Center performance results through June 2008 were reviewed.
2. Executive Director reported that Dick Edenstrom, Executive Director, First District Association of Local Governments (mapping vendor for South Dakota One Call) and himself have a meeting scheduled on Monday July 21st with Senator Smidt (Brookings) to discuss the need for a centralized map system for the state of South Dakota.
3. The Board reviewed the pending schedule of technology items to be deployed.
 - a. FM online is the only remaining process from the 2006 Contract discussions with OCS that has not been deployed. The revised schedule for deployment of 'FM online' was discussed in detail. Discussion occurred relative to the need to meet this schedule and deploy the process to facility operators no later than December 1st so they can review and update their database information during the slow construction season. Karla McNamara advised the Board that she would monitor and follow up with the staff of One Call Systems.
 - b. The executive director provided an overview of using aerial photography that has the potential for significantly

improving the locate request and database management processes for excavators and facility operators. While this technology will require some additional time to deploy, this will be the primary focus following the implementation of 'FM online'.

The following items were presented to the Board for discussion and approval:

1. Approval of Complaint Docket OC08-001 – In the matter of the Complaint filed by Jeff Thompson vs. Albenesius Contracting – Both parties accepted recommended resolution.
2. Record the email vote regarding the decision to submit the marking of sewer and water facilities to the Attorney General for an official opinion. Vote cast by email 9 in favor, 1 opposed, 1 member did not vote.
3. Approve a final date for the elimination of the fax-a-locate process. Executive director has proposed an October 1, 2008 date for the total elimination of the fax-a-locate process.
 - a. Letters advising users will be sent during July, August and a final notice in September. Board requested the Executive Director to let them know the week prior to the notices being sent to users.

A motion was made by Gene Solseth and seconded by Doug Larson to approve the previous three items. **Motion Carried by unanimous vote.**

The Board had discussion on the following Executive Director Report Items.

1. Kara Semmler provided a status report on legal action pursued against Vince Finkhouse dba Eagle Excavating relative to Complaint Docket OC05-005. Default Judgment has been entered by Pennington County Circuit Court. A review of potential assets is being conducted and a final report will be made at the next Board meeting.
2. Kara Semmler provided a status report on legal action pursued against Mark Seifkes dba S.P.O.T relative to Complaint Docket OC07-006. PUC approved the Board's pursuit of collection action. Mr. Seifkes has not responded to any of the proceedings and the next step will be to request a default judgment in Kingsbury County Circuit Court.
3. Executive Director provided information on the new web site design being completed by the PUC staff.
 - a. Web site should be operational in the next month or two...design has been updated to make it more user friendly and whenever possible the web site will link to official documents rather than copies.
 - b. Todd Chambers requested that consideration be given to establishing a method where interested parties can sign up and automatically receive notification of agenda and minutes posting. Executive Director will pursue with PUC Staff.
 - c. Executive Director has been receiving requests from vendors that provide products for facility operators and vendors to be linked to the web site. After some discussion, a motion was made by Kurt Pfeifle and seconded by Erin Hayes that only web sites of non-profit damage prevention entities be linked to the South Dakota One Call web site. **Motion Carried by unanimous vote.**
4. Executive Director and legal counsel reported on the request for an attorney general opinion on the marking of water and sewer laterals. It is their understanding that the Attorney General will issue an opinion on all or part of the issues. This opinion is anticipated in the near future. The Board was advised that the opinion rendered will guide all future Board action unless changed by court or legislative action. It was recommended that all parties review in detail and determine if any of the rulings would apply beyond sewer and water. If any issues arise, we would like them directed to Kara Semmler, legal counsel to the Board for review and consideration.
5. Executive Director presented the Board with correspondence from PHMSA to the Governor and PUC regarding EDPI (Excavation Damage Prevention Initiative) which was included in the 2006 Pipeline Safety Act. An initial response has been sent to PHMSA and further correspondence should be provided PHMSA and the Governor prior to the end of 2008. The initial review by the Executive Director indicates that South Dakota is in compliance with almost all of the issues. There is an annual grant process available to the Board if they desired to enhance any of the current processes. Board members will review in the issues and assess their desire to pursue changes and apply for grant funds in 2009.
6. Executive Director reported that Senate Bill 190 created a task force that: "shall review the status of existing and proposed pipelines in South Dakota and assess the adequacy of state laws and regulations relating to the pipelines in South Dakota." It goes on to say the task force shall report its findings to the Governor no later than December 1, 2008.

Members of the task force have not been appointed at this time. Board members and staff will be available to provide any assistance requested by the task force and to monitor any issues that may impact the One Call System.

7. The Board had discussion on the issues brought forth by members and staff for consideration for administrative rule or statute changes.
 - a. Executive Director brought forth language in the proposed statute change in North Dakota that allowed for the prevailing party in a complaint docket ruling to collect legal fees. This issue had been brought before the Board previously by Brett Koenecke who represented a member in the hearing process. Comments had also been received by other members about the legal costs associated with the hearing process. After discussion, it was a general consensus that the Board would refer this language to parties that might have an interest but the Board would not introduce legislation on this issue. Can Kara advise Brett of this issue
 - b. Executive Director brought forth the issue of 'high profile facilities' that would require facility operator presence during an excavation in the vicinity of the underground pipeline. This issue had been discussed during previous rules process and was not pursued due to the inability of the underground facility operators to agree to a definition of high profile and a distance that their presence would be required. The issue has been raised at various national meetings and may arise from the pipeline task force. No action was requested on this issue other than to advise the Board that the issue is surfacing in other states.
 - c. The SDTA had previously requested the Board to address the issue of excavators generating repeated locate requests when no excavation activity occurred during the previous request. Rick Coit of the SDTA presented options that could be considered for rules action. The Board directed the executive director and legal counsel to work with the SDTA on draft language and submit to the One Call Board for review. The Board would also request the SDTA endorsement of the changes prior to any formal rules action on this issue.
 - d. Establishing mandatory premarking of the excavation site when excavation occurs in the ROW within the boundaries of municipalities. The Board directed the executive director and legal counsel to draft language and submit to the One Call Board for review. The Board would also request the endorsement of the South Dakota Municipal League prior to any formal rules action on this issue.
 - e. The executive director provided a pre-marking proposal that is included in the Kansas Administrative rules and deals with situation when the excavation site (marking instructions) on the locate request are excessive and do not meet the current requirements in the Administrative Rules. This area of the locate request cannot be monitored by the Customer Service Representative as they must accept the information as provided by the excavator. This change would not be utilized on a broad basis but would serve a very limited basis on some locate requests which are very time consuming. Executive Director will update language and submit to the Board for review.
8. The executive director reported on preliminary discussion with One Call Systems on a contract extension. There does not appear to be any major changes being requested by One Call Systems. They have requested that wording be modified to create a partnership in the collection of overdue bills when OCS has exhausted all avenues except the legal process. Executive Director will work with legal counsel to review proposed wording changes and if they appear reasonable will submit to the executive committee of the Board for review. The Board also requested the Executive Director to review the performance measurements to determine 1) if the current contract requirements are still valid since they have remained constant for the past three contracts 2) if the current contract requirements are similar to the expectations of other Centers and the CGA Best Practices.

A motion was made by Bleau LaFave and seconded by Todd Chambers that the Board go into executive session to discuss Exhibit B of the current executive director contract and to review the issues related to the search process for a new executive director. **Motion Carried by unanimous vote**

A motion was made by Kurt Pfeifle and seconded by Doug Larson that the Board come out of executive session. **Motion Carried by unanimous vote**

A motion was made by Doug Larson and seconded by Gene Solseth to approve Exhibit B to the executive director contract as submitted and to modify wording on Exhibit A to reflect fiscal year rather than calendar year. **Motion Carried by unanimous vote**

Chairman Anderson appointed himself, Kurt Pfeifle, Bleau LaFave, Kevin Kouba, and Jerry Schroeder to serve as members of the executive director search committee. Chairman Anderson also requested the executive director to assist in updating all the contract language and doing other functions as requested by the Committee. This committee will review all documents, seek applicants, review the value of the position in comparison to other states and conduct a prescreening process.

A motion was made by Doug Larson and seconded by Todd Chambers that the meeting be adjourned. **Motion Carried by unanimous vote**