

**BEFORE THE SOUTH DAKOTA ONE CALL
NOTIFICATION BOARD**

IN THE MATTER OF THE)	ORDER
COMPLAINT AGAINST XCEL)	OC05-002
ENERGY)	

On February 23, 2005, the South Dakota Public Utilities Commission received a complaint from Elliot Construction, Inc. against XCEL Energy. XCEL Energy did not dispute the allegation of an inaccurately marked cable in the complaint but did provide an alternative scenario for the allegation.

On April 13, 2005 the Enforcement Committee of the South Dakota One Call Notification Board met and determined that probable cause exists in Docket OC05-002 in regards to the allegation that XCEL Energy has violated SDCL 49-7A-8. The Enforcement Committee recommended a \$500.00 penalty with \$300.00 suspended on the grounds that XCEL Energy fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following the date of XCEL Energy signing the Enforcement Committee Action Agreement and that XCEL Energy fully comply with the resolution of this complaint by making payment of two hundred dollars within thirty days of the issuance of this order.

All interested parties agreed with the recommendations of the Enforcement Committee. By April 21, 2005, all interested parties had signed the Enforcement Committee Action Agreement and on May 5, 2005 payment was received from XCEL Energy relative to this complaint. It is therefore,

ORDERED, that the terms and conditions of the Enforcement Committee Action Agreement shall be incorporated into this Order by reference and attached hereto, the same as if it was fully recited herein and shall as such be fully binding upon the parties to it; and it is

FURTHER ORDERED that the docket in this matter shall be closed.

The South Dakota One-Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A, specifically 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, 49-7A-26.

Dated at Sioux Falls, South Dakota, this 6th day of May, 2005.

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 or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: _____
Larry Englerth, Executive Director

Date: May 6, 2005

BY ORDER OF THE SD ONE-CALL BOARD:

KEVIN KOUBA, Chairman

Under the Authority and on Behalf of the
Chairman

LARRY ENGLERTH, Executive Director

ENFORCEMENT COMMITTEE ACTION
OC05-002
Elliot Construction vs. XCEL Energy

FINDINGS:

OC05-002

Alleged Violation of SDCL 49-7A-8 Location of Underground Facilities - Marking

Allegation is made by Elliot Construction that XCEL Energy did not accurately mark an underground power line on Ticket Number 043290242 on November 24, 2004.

The response received from XCEL Energy did not dispute the allegation that the original marking of the power line was inaccurate but stated that the locator was not certain of the marks and was still in the process of completing the locate activity associated with the ticket when the damage occurred..

In reviewing the complaint filed by Elliot Construction and the response from XCEL Energy, the committee determined the following:

1. Elliot Construction had a valid ticket for the excavation site that clearly identified the excavation site.
2. The complaint filed by Elliot Construction contained multiple witness statements including a statement from a third party (Midcontinent Communications) that supported the allegations in the complaint.
3. The complaint filed by Elliot Construction included multiple photographs taken at the excavation site that supported the allegations of the complaint.
4. The complaint and the response both indicate that the locator for XCEL Energy was at the excavation site when the damage occurred which resulted in the allegation that the power line had been inaccurately marked.
5. The total length of the excavation site was approximately 100 feet and if the locator was in the process of evaluating the quality of the original marks, he would have been in close proximity to the excavation activity.
6. The complaint indicated that the point of damage to the XCEL power line was at a depth of 5 feet and the damage occurred when the excavation site was being widened. This indicates that the damaged power line, which was alleged to have been inaccurately marked, occurred after a period of excavation activity which would have allowed the locator to notify the equipment operator that he had not completed the marking of the power line.
7. The response filed by XCEL Energy did not provide any supporting written documentation from the locator who was involved in the incident or the XCEL technician who repaired the damaged facility.

Based on the information noted above, the Committee found that there was probable cause that XCEL Energy had violated SDCL 49-7A-8 by inaccurately marking the underground power line on Ticket Number 0403290242.

RECOMMENDATION

OC05-002

VIOLATION OF SOUTH DAKOTA SDCL 49-7A-5:

The Committee found that there was probable cause that XCEL Energy had violated SDCL 49-7A-8 by inaccurately marking the underground power line on Ticket Number 0403290242.

PROPOSED PENALTY FOR THIS VIOLATION AUTHORIZED UNDER SDCL 49-7A-18:

The committee recommends a penalty of five hundred dollars (\$500.00) with three hundred dollars (\$300.00) suspended on the following conditions:

1. XCEL Energy fully complies with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC05-002 by both parties.
2. XCEL Energy fully complies with the resolution of Complaint OC05-002 by making payment of the two hundred dollars (\$200) within thirty (30) days of the issuance of the Order to close Complaint OC05-002.

COMMENTS:



Northern States
Power Company
d/b/a Xcel Energy
414 Nicollet Mall
Minneapolis, MN 55401
303-628-2644

Wells Fargo Bank, N.A.
115 Hospital Drive
Van Wert, OH 45891



0000398679

56-982
412

9600019921

Date 04/27/05

\$200.00 USD

Pay TWO HUNDRED & 00/100***** DOLLARS

VOID IF NOT CASHED IN 90 DAYS

To The Order Of SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
1012 NORTH SYCAMORE AVENUE
SIOUX FALLS SD 57110-5747

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER AND AN ARTIFICIAL WATERMARK ON REVERSE SIDE - HOLD AT ANGLE TO VIEW

⑈0000398679⑈ ⑆041203824⑆9600019921⑈

Payee
SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

Vendor ID	Employee #	Check No.	Date
SOUTHDAKON 01		0000398679	04/27/05

Payment Ref	Invoice No.	PO/Contract	Disc/Wth	Pay Amount
36784810000	OC05-00		.00	\$200.00

Pymt Comments: Xcel Energy complies with resolution of complaint OC-05-002 making payment of the \$200.00 in order to close the complaint.
Route to: Shawn McMorro, Rice St Service Center, St. Paul, MN