



Larry Englerth  
Executive Director  
[exedir@sdonecall.com](mailto:exedir@sdonecall.com)

1012 North Sycamore Ave.  
Sioux Falls, SD 57110

Tel/Fax (605) 339-0529  
Email:

May 28, 2007

Juston Kuper  
JHK Excavating  
46591 277<sup>th</sup> Street  
Lennox, SD 57039

Tim Chance, East Operations Mgr  
Southeastern Electric Cooperative, Inc.  
P.O. Box 105  
Alcester, SD 57001-0105

The Enforcement Committee recommendation to resolve Complaint OC07-002 has been accepted by both parties involved in the complaint. The order closing this Complaint is attached.

This order will close all action on this complaint with the exception that the suspended portion of the penalty would be applicable should a further violation occur prior to May 24, 2008 or payment of the penalty is not received prior to June 29, 2007. Payment should be mailed to the following address:

South Dakota One Call Notification Board  
c/o Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501

The Board reminds JHK Excavating that the person doing the excavating is required to contact the South Dakota One Call System and have a ticket issued in their name. Research of the One Call System database does not reflect any tickets issued in 2007 under any of the following search criteria: JHK Excavating, Justin Kuper or telephone number 605-647-5541.

Sincerely,

s/s Larry Englerth

Larry L. Englerth  
Executive Director

## BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

---

IN THE MATTER OF THE	)	ORDER
COMPLAINT AGAINST JHK	)	OC07-002
EXCAVATING	)	

---

On April 9, 2007, the South Dakota Public Utilities Commission received a complaint from Southeastern Electric Cooperative, Inc. against JHK Excavating. JHK Excavating did not dispute the allegation in the complaint that they had excavated without providing advance notice to the South Dakota One Call System but did provide background information on how the violation occurred and their previous history of utilizing the South Dakota One Call System.

On May 3, 2007, the Enforcement Committee of the South Dakota One Call Notification Board met and determined that probable cause exists in Docket OC07-002 in regards to the allegation that JHK Excavating has violated SDCL 49-7A-5. The Enforcement Committee recommended a five hundred dollar (\$500.00) penalty with three-hundred dollars (\$300.00) suspended on the grounds that JHK Excavating fully comply with SDCL 49-7A and ARSD Article 20:25 for twelve months following the date of both parties signing the Enforcement Committee Action Agreement and that JHK Excavating fully comply with the resolution of this complaint by making payment of two-hundred dollars (\$200) within thirty days of the issuance of this order.

All interested parties agreed with the recommendations of the Enforcement Committee. By May 24, 2007, all interested parties had signed the Enforcement Committee Action Agreement.

ORDERED, that the terms and conditions of the Enforcement Committee Action Agreement and the signed Acceptance of the recommended resolution by both parties 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 28<sup>th</sup> day of May, 2007.

**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: s/s Larry Englerth

Larry Englerth, Executive Director

Date: May 28, 2007

BY ORDER OF THE SD ONE-CALL BOARD:

s/s Jerry Schroeder

—  
JERRY SCHROEDER, Chairman

s/s Larry Englerth

Under the Authority and on Behalf of the  
Chairman

LARRY ENGLERTH, Executive Director

# **ENFORCEMENT COMMITTEE ACTION**

## **OC07-002**

### **Southeastern Electric Cooperative, Inc. vs. JHK Excavating**

#### **FINDINGS:**

#### **OC07-002**

#### **Alleged Violation of SDCL 49-7A-5 Notification of Proposed Excavation**

Allegation is made by Southeastern Electric Cooperative, Inc. that JHK Excavating commenced excavation at 7505 West 64<sup>th</sup> Street in Sioux Falls, SD, without providing prior notification to the South Dakota One Call System as required by SDCL 49-7A-5.

JHK Excavating did not dispute the allegation that excavation activity had commenced without providing advance notification to the South Dakota One Call System.

In reviewing the complaint filed by Southeastern Electric Cooperative, Inc. and the response from JHK Excavating, the committee determined the following:

JHK Excavating had commenced excavation without providing advanced notification to the South Dakota One Call System.

Based on the information noted above, the Committee found that there was probable cause that JHK Excavating had violated SDCL 49-7A-5 without providing advance notice to the South Dakota One Call System.

#### **RECOMMENDATION**

#### **OC07-002**

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

The Committee found there was probable cause that JHK Excavating had violated SDCL 49-7A-5 by commencing excavation at 7505 West 64<sup>th</sup> Street in Sioux Falls, SD, without providing advance notification to the South Dakota One Call System as required by statute.

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

The committee recommends a penalty of five hundred dollars (\$500) with three hundred dollars (\$300) suspended on the following conditions:

1. JHK Excavating fully complies with SDCL 49-7A and ARSD Article 20:25 for twelve months following acceptance of resolution of Complaint OC07-002 by both parties.
2. JHK Excavating fully complies with the resolution of Complaint OC07-002 by making payment of the two hundred dollars (\$200) within thirty (30) days of the issuance of the Order to close Complaint OC07-002.

#### **COMMENTS:**

The response from JHK Excavating appeared to indicate that on previous excavations, the locate requests had been called into the South Dakota One Call System by the property owner or some other party. The Committee wants to insure that JHK Excavating clearly understands that all locate request should be initiated by the party doing the actual excavating work.