

AGENDA

South Dakota One Call Notification Board Enforcement Panel Conference Call

Tuesday, December 19, 2023 at 10AM CT (9AM MT)

This meeting will be hosted via ZOOM. Please email Mandy Benson at mandy@sd811.com for access.

A brief description of the Enforcement Panel process: This is a legal proceeding, and no comments will be taken by any of the parties involved in the Complaints during this call. A probable cause determination will be made based only on the written documentation received from the parties involved in the complaints. All parties will be given the opportunity to request a hearing before the full South Dakota One Call Notification Board, if there is disagreement with the recommendation of the Panel. If a hearing is requested, each party must be represented by legal counsel at the hearing. If a hearing is not requested, the Enforcement Panel recommendation will be presented to the South Dakota One Call Board of Directors for acceptance at the next Board Meeting. A Board Order will be mailed to each party after that Board Meeting. Please note, no payment is due until the final order is issued.

Factors to be considered in determining the amount of the penalty, if assessed shall be:

1. The amount of damage, degree of threat to public safety and the inconvenience caused.
2. The respondent's plan and procedures to ensure future compliance with statutes and rules.
3. Any history of previous violations.
4. Other matters as justice requires.

49-7A-18. Penalties. Except as provided in § 49-7A-19 and in addition to all other penalties provided by law, any person who violates or who procures, aids, or abets in the violation of § 49-7A-2, 49-7A-5, 49-7A-8, or 49-7A-12, or any rules promulgated pursuant to § 49-7A-2, 49-7A-5, or 49-7A-8 **may be assessed a penalty of up to one thousand dollars for the first violation and up to five thousand dollars for each subsequent violation that occurs within twelve months of the initial violation.**

49-7A-19. Penalties for intentional violations. In addition to all other penalties provided by law, any person who intentionally violates or who intentionally procures, aids, or abets in the violation of § 49-7A-2, 49-7A-5, 49-7A-8, or 49-7A-12, or any rules promulgated pursuant to § 49-7A-2, 49-7A-5, or 49-7A-8 **may be assessed a penalty of up to five thousand dollars for the first violation and up to ten thousand dollars for each subsequent violation that occurs within twelve months of the initial violation.**

49-7A-20. Each violation as separate offense. **Each violation of any statute or rule of the Statewide One-Call Notification Board constitutes a separate offense. In the case of a continuing violation, each day that the violation continues constitutes a separate violation.**

The Enforcement Panel of the South Dakota One Call Notification Board is meeting to consider the following South Dakota One Call Complaints:

OC23-001 In the matter of the complaint filed by **Northern Natural Gas Company**, Omaha, NE against **UGK Communications**, Houston, TX for an incident occurring August 9, 2022 at 10 Alumni Street in Vermillion.

Deadline to Respond to second notice is December 6, 2023.

There is no previous history with UGK Communications.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that UGK Communications violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC23-002 In the matter of the complaint filed by **City of Rapid City**, Rapid City, SD against **KTM**, Rapid City, SD for an incident occurring March 3, 2023 at East Philadelphia / East Anamosa Streets in Rapid City.

Deadline to Respond to second notice is December 6, 2023. Response was received December 8, 2023.

There is no previous history with KTM.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that KTM violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC23-003 In the matter of the complaint filed by **City of Rapid City**, Rapid City, SD against **KTM**, Rapid City, SD for an incident occurring March 14, 2023 at Dyess Avenue / Country Road in Rapid City.

Deadline to Respond to second notice is December 6, 2023. Response was received December 8, 2023

There is no previous history with KTM.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that KTM violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC23-005 In the matter of the complaint filed by **Jeff Stice**, Sioux Falls, SD against **Unknown**, Sioux Falls, SD for an incident occurring April 22, 2023 at 41st and 42nd Avenue on Philips Avenue in Sioux Falls.

Deadline to Respond is December 6, 2023.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Unknown violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC23-007 In the matter of the complaint filed by **Accurate Locating Service**, Rapid City, SD against **CCS**, Black Hawk, SD for an incident occurring July 24, 2023 at Hwy 1416 on Philips Avenue in Sioux Falls.

Deadline to Respond was December 6, 2023. Response was received on November 1, 2023.

There is previous history with CCS.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that CCS violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC23-009 In the matter of the complaint filed by **NorthWestern Energy**, Brookings, SD against **T & T Underground**, Windom, MN for an incident occurring September 26, 2023 at 1190 Pelican Point Road in Madison.

Deadline to Respond was December 7, 2023. Response was received December 5, 2023.

There is previous history with T&T Underground.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that T & T Underground any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

OC23-013 In the matter of the complaint filed by **Magellan Midstream Partners LP**, Tulsa, OK against **Eric Nelson**, Edgemont, SD for an incident occurring October 27, 2023 at Indian County Road and County Road 65 in Edgemont.

Deadline to Respond was December 7, 2023. Response was received November 22, 2023.

There is no previous history with Mr. Eric Nelson.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Mr. Eric Nelson any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

Motion to adjourn.

Please note: This was a legal proceeding and only written information provided by the Complainants and the written response from the Defendants was considered per SDCL 49-7A-25. No comments from the parties involved in the complaints will be taken during this call.