

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT FILED BY MONTANA DAKOTA UTILITIES, RAPID CITY, SD AGAINST UNDERGROUND SOLUTIONS, INC., SIOUX FALLS, SD, FOR AN INCIDENT OCCURRING ON AUGUST 27, 2020 AT 704 PAHASAPA ROAD, RAPID CITY, SD.	<b>ORDER ADOPTING ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD</b>  OC20-061
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On September 2, 2020, the South Dakota One Call Board received a Complaint filed by Montana Dakota Utilities Co. (herein "Claimant"), against Underground Solutions, Inc. (herein "Respondent"), for an incident occurring on August 27, 2020, at 704 Pahasapa Road, Rapid City, SD. The Complaint alleges violations of SDCL 49-7A-8 and 49-7A-12 when Respondent was installing a cable line and hit the gas service line with the trencher. Claimant states Respondent did have a valid locate ticket and that gas was blowing. 811 was notified; 911 was not notified.

A copy of the Complaint was sent to Respondent on September 9, 2020. The deadline to respond was September 29, 2020. Respondent has answered the Complaint as of September 18, 2020 and does dispute that a violation of South Dakota One Call law occurred. Respondent alleges someone had pulled the flags for the gas line and the meter is not readily visible. Respondent alleges the paint markings were not visible with the ground being brown and usage of safety glasses. Respondent alleges 911 and 811 were both notified.

On October 8, 2020, the Enforcement Panel (herein "Panel") convened pursuant the authority present in SDCL 49-7A. The Panel *does find* probable cause that an unintentional violation of SDCL 49-7A-8 occurred. As South Dakota One Call asks for the accident report to be provided on the online complaint and response forms and no report was submitted by either party, the Panel was not able to verify the allegation that 911 was not notified and dismissed the violation of SDCL 49-7A-12.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$1,500 with \$1,000 suspended upon the conditions listed below. The conditions for the suspended penalty are as follows:

1. Respondent must not be found guilty of a One-Call violation within 12 months of the Board Order,
2. The penalty payment of **\$500** must be made to **South Dakota One Call Notification Board, P.O. Box 187, Rapid City, SD 57709.**
3. Respondent must attend a Damage Prevention meeting in 2021.
4. Respondent must conduct an in-house safety meeting to discuss South Dakota One Call laws. Detail of the discussion material, date, and length of the meeting along with printed and signed names of attendees will be submitted to the Executive Director of South Dakota One Call within thirty (30) days of the Board Order being issued.
5. Respondent will arrange a face-to-face meeting with Claimant to review the damage, dangers while working around utilities, and safe practices. This meeting is to take place within thirty (30) days of the Board Order being issued.

If any of the above conditions are not met, the suspended penalty (**\$1,000**) becomes immediately due and payable to **South Dakota One Call Notification Board, P.O. Box 187, Rapid City, SD 57709.**

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 (20) days from the date of service of this notice. Failure to request a hearing is considered acceptance of the recommendations and findings herein.

On November 25, 2020, the Panel's recommendation was sent to the parties to this action. The parties did not request an evidentiary hearing. The Board reviewed the Panel's recommendations at its February 19, 2021 meeting pursuant to SDCL 49-7A-27. The Panel's recommendation was approved by the Board. It is now, therefore:

**ORDERED**, that the South Dakota One Call Board adopts the recommendations of the Panel as a final resolution of this Complaint. The Panel's findings are attached hereto and shall be considered fully incorporated herein.

**ORDERED**, that if the penalty is not paid, that the Board shall pursue any rights it has under the law regarding collections.

The South Dakota One Call Notification Board has jurisdiction over this matter pursuant to SDCL 1-26 and 49-7A and ARSD Article 20:25, specifically SDCL 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, and 49-7A-26.

Dated this 24<sup>th</sup> day of February, 2021.

BY ORDER OF THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD:

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