

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT FILED BY ASKLAND DITCHING AGAINST BLACK HILLS ELECTRIC COOP FOR AN INCIDENT OCCURRING ON MARCH 4, 2022 AT 8007 KATRINA CT, RAPID CITY, SD.	ORDER ADOPTING ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD OC22-001
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On March 4, 2022, the South Dakota One Call Notification Board received a Complaint filed by Askland Ditching (herein “Claimant”) against Black Hills Electric Coop (herein “Respondent”) for an incident occurring on March 4, 2022, at 8007 Katrina Ct, Rapid City, SD. The Complaint alleges a violation of SDCL 49-7A-9 when Respondent failed to provide location markings before the start time on emergency ticket.

A copy of the Complaint was sent to Respondent on March 4, 2022. The deadline to respond was March 25, 2022. Respondent answered the Complaint on March 17, 2022. Respondent does not dispute that a violation of South Dakota One Call law occurred. Respondent alleges locate was due at 7:00 a.m. on March 4, 2022 and was not on site until 8:00 a.m. on March 4, 2022.

On May 10, 2022, the Enforcement Panel (herein “Panel”) convened pursuant to the authority present in SDCL 49-7A. The Panel does find probable cause that an unintentional violation of SDCL 49-7A-9 occurred.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$1,000 with \$250 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 twelve (12) months of the Board Order being issued.
2. The penalty payment of **\$750** must be made to the ***South Dakota One Call Notification Board, P.O. Box 187, Rapid City, SD 57709*** within thirty (30) days of the Board Order being issued.
3. Respondent must attend a Damage Prevention meeting in 2023.

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 (**\$250**) 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 Notification 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 June 6, 2022, 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 August 16, 2022 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 22nd day of September, 2022.

BY ORDER OF THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD:

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