BEFORE THE SOUTH DAKOTA

ONE CALL NOTIFICATION BOARD

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| IN THE MATTER OF THE COMPLAINT FILED BY DAN KAISER, SIOUX FALLS, SD AGAINST MIDCO, SIOUX FALLS, SD FOR AN INCIDENT OCCURRING ON APRIL 29, 2022 AT 1200 SOUTH KEVIN CIRCLE, SIOUX FALLS, SD. | **ORDER ADOPTING ENFORCEMENT PANEL RECOMMENDATION TO THE SOUTH DAKOTA ONE CALL BOARD**OC22-004B |

On May 8, 2022, the South Dakota One Call Notification Board received a Complaint filed by Dan Kaiser (herein “Claimant”) against Midco (herein “Respondent”) for an incident occurring on April 29, 2022, at 1200 South Kevin Circle, Sioux Falls, SD. The Complaint alleges violations of SDCL 49-7A-9 and SDCL 49-7A-10 when Respondent did not perform locates within the 48-hour requirement.

 A copy of the Complaint was sent to Respondent on May 23, 2022. The deadline to respond was June 14, 2022. Respondent answered the Complaint on June 10, 2022. Respondent does not dispute that violations of South Dakota One Call law occurred. Respondent alleges that a third party is responsible for locates and failed to follow up with Claimant or Respondent after an extension was not granted by Claimant. Claimant requested a withdrawal of the Complaint on July 6, 2022.

 On August 16, 2022, the Enforcement Panel (herein “Panel”) convened pursuant to the authority present in SDCL 49-7A. The Panel accepted Claimant’s withdrawal. Therefore, the Panel recommends the Complaint be dismissed.

 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 September 27, 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 November 10, 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 20:25, specifically SDCL 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, and 49-7A-26.

 Dated this \_\_\_\_ day of November, 2022.

BY ORDER OF THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD:

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Fay Jandreau, Chairman