

BEFORE THE SOUTH DAKOTA
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT
FILED BY NORTHWESTERN ENERGY,
BROOKINGS, SD AGAINST HALME,
INC., LAKE NORDEN, SD FOR AN
INCIDENT OCCURRING ON MAY 4, 2022
AT 23425 456TH AVENUE, MADISON,
SD.

**ORDER ADOPTING ENFORCEMENT
PANEL RECOMMENDATION TO THE
SOUTH DAKOTA ONE CALL BOARD**

OC22-005

On May 5, 2022, the South Dakota One Call Notification Board received a Complaint filed by North Western Energy (herein "Claimant") against Halme, Inc., (herein "Respondent") for an incident occurring on May 4, 2022, at 23425 456th Avenue, Madison, SD. The Complaint alleges a violation of SDCL 49-7A-12 when Respondent hit tracer wire and did not report hit to 811 or Claimant. Claimant further alleges Respondent attempted repair on their own to hide the damage.

A copy of the Complaint was sent to Respondent on May 13, 2022. The deadline to respond was June 3, 2022. Respondent answered the Complaint on June 9, 2022. Respondent does not dispute that a violation of South Dakota One Call law occurred. Respondent alleges they did not report the damage and did not know that it needed to be reported. Respondent further alleges the attempt to splice wire was not an attempt to cover up or hide anything from Claimant.

On August 16, 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-12 occurred.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$500 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 **\$250** 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 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:

Fay Jandreau, Chairman