

BEFORE THE SOUTH DAKOTA  
ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT  
FILED BY AMERICAN ENGINEERING  
TESTING, INC, RAPID CITY, SD  
AGAINST WEST RIVER ELECTRIC  
ASSOCIATION, INC., RAPID CITY, SD  
FOR AN INCIDENT OCCURRING ON  
SEPTEMBER 12, 2023 AT LOT 3 AT THE  
INTERSECTION OF ISAAC STREET AND  
E ANAMOSA STREET IN RAPID CITY,  
SD.

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

OC23-017

On December 14, 2023, the South Dakota One Call Notification Board received a Complaint filed by American Engineering Testing, Inc, (herein “Claimant”) against West River Electric Association, Inc., (herein “Respondent”) for an incident occurring on September 12, 2023, at Lot 3 at the Intersection of Isaac Street and E Anamosa Street in Rapid City, SD. The Complaint alleges a violation of ARSD 20:25:03:05.04 when Respondent’s drill hit the unmarked line. Claimant alleges the high voltage line was not marked.

A copy of the Complaint was sent to Respondent on March 18, 2024. The deadline to respond was April 10, 2024. Respondent answered the Complaint on April 9, 2024. Respondent does dispute that a violation of South Dakota One Call law occurred and also disputes the intentional nature allegation. Respondent alleges the tickets were to be in the center of the lots and not at edge of lot. Respondent also alleges Claimant was excavating outside the scope of their ticket.

On May 21, 2024, the Enforcement Panel (herein “Panel”) convened pursuant to the authority present in SDCL 49-7A. The Panel does find probable cause that an intentional violation of ARSD 20:25:03:05.04 occurred.

Based upon the evidence presented in the filings, the Panel recommends a penalty of \$500.00 with \$500.00 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.

If **any** of the above conditions are not met, the suspended penalty (**\$500.00**) 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.

The South Dakota One Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A and ARSD 20:25.