

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.

**ORDER ADOPTING 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.***

On June 28, 2024 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 July 23, 2024 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; and it is therefore;

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

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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 8th day of August, 2024.

BY ORDER OF THE SOUTH DAKOTA ONE
CALL NOTIFICATION BOARD:

A handwritten signature in black ink, appearing to read "Mark Meier", written over a horizontal line.

Mark Meier, Chairman