

## AGENDA

### South Dakota One Call Notification Board Enforcement Panel Conference Call

**DUE TO CORONAVIRUS OUTBREAK – THIS MEETING CAN NOT BE ATTENDED IN PERSON. WE ENCOURAGE ALL PARTIES INVOLVED TO JOIN VIA ZOOM WEB CONFERENCE CALL. CONTACT CODI GREGG AT [DEPUTYDIRECTOR@SD811.COM](mailto:DEPUTYDIRECTOR@SD811.COM) FOR ACCESS TO CALL.**

**Thursday, August 13, 2020 at 2PM CT (1PM MT)**

A brief description of the Enforcement Panel process: This is a legal proceeding and no comments will be taken by any of the parties involved in the Complaints during this call. A probable cause determination will be made based only on the written documentation received from the parties in the complaints. All parties will be given the opportunity to request a hearing before the full South Dakota One Call Notification Board, if there is disagreement with the recommendation of the Panel. If a hearing is requested, each party must be represented by legal counsel at the hearing. If a hearing is not requested, the Enforcement Panel recommendation will be presented to the South Dakota One Call Board of Directors for acceptance at the next Board Meeting. A Board Order will be mailed to each party after that Board Meeting. Please note, no payment is due until the final order is issued.

Factors to be considered in determining the amount of the penalty, if assessed shall be:

1. The amount of damage, degree of threat to public safety and the inconvenience caused.
2. The respondent's plan and procedures to insure future compliance with statutes and rules.
3. Any history of previous violations.
4. Other matters as justice requires.

**49-7A-18. Penalties.** Except as provided in § 49-7A-19 and in addition to all other penalties provided by law, any person who violates or who procures, aids, or abets in the violation of § 49-7A-2, 49-7A-5, 49-7A-8, or 49-7A-12, or any rules promulgated pursuant to § 49-7A-2, 49-7A-5, or 49-7A-8 **may be assessed a penalty of up to one thousand dollars for the first violation and up to five thousand dollars for each subsequent violation that occurs within twelve months of the initial violation.**

**49-7A-19. Penalties for intentional violations.** In addition to all other penalties provided by law, any person who intentionally violates or who intentionally procures, aids, or abets in the violation of § 49-7A-2, 49-7A-5, 49-7A-8, or 49-7A-12, or any rules promulgated pursuant to § 49-7A-2, 49-7A-5, or 49-7A-8 **may be assessed a penalty of up to five thousand dollars for the first violation and up to ten thousand dollars for each subsequent violation that occurs within twelve months of the initial violation.**

**49-7A-20. Each violation as separate offense.** **Each violation of any statute or rule of the Statewide One-Call Notification Board constitutes a separate offense. In the case of a continuing violation, each day that the violation continues constitutes a separate violation.**

The Enforcement Panel of the South Dakota One Call Notification Board will meet to consider the following South Dakota One Call Complaints:

**OC20-041-** In the Matter of the Complaint filed by Roger French (French) Brookings, South Dakota against Prunty Construction (Prunty) Brookings, South Dakota for an incident occurring in August, 2019 at 4<sup>th</sup> Avenue and South Roberts Street in Humboldt, South Dakota.

Deadline to Respond was July 28, 2020. Response was received on July 27, 2020.  
There is no previous history with Prunty.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Prunty violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

**OC20-042 -** In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against GTI Companies, (GTI) Deadwood, South Dakota for an incident occurring on July 1, 2020 at Summerset Drive and Sunny Hill Circle in Rapid City, South Dakota.

Deadline to Respond was August 10, 2020. Response was received July 23, 2020.  
There is previous history with GTI:

OC18-028, Date of Incident was 11/1/2018. Intentional violation of 49-7A-5, with \$1,000 penalty with \$250 suspended with GTI meeting requirements. Order was issued on June 3, 2019. Conditions met and docket closed June 14, 2019.

OC19-024, Date of Incident was July 16, 2019. July 24, 2019 MDU submitted a request to withdraw the complaint. The Panel recommended to withdraw the complaint, Board Order was issued on November 19, 2019. Docket was closed on November 22, 2019.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that GTI violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

**OC20-043** In the Matter of the Complaint Filed by CenturyLink (CenturyLink) Rapid City, South Dakota against Oftedal Construction (Oftedal) Casper, Wyoming for an incident occurring on July 11, 2020 at Sheridan Lake Road in Rapid City, South Dakota.

Deadline to Respond was August 5, 2020. Response was received as of August 4, 2020.  
There is no previous history with Oftedal.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Oftedal violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

**OC20-048** In the Matter of the Complaint filed by Montana Dakota Utilities (MDU) Rapid City, South Dakota against Rapid Construction (Rapid), Rapid City, South Dakota for an incident occurring on July 20, 2020 at 5500 Elm Street, Black Hawk, South Dakota.

Deadline to Respond was August 19, 2020. Response was received August 6, 2020. There is previous history with Rapid Construction. OC14-003 – Conditions were met and the docket closed.

Today, shall the Enforcement Panel of South Dakota One Call Notification Board find that there is probable cause that Rapid violated any statute or rule under the jurisdiction of the Board, and if so, shall a civil penalty be assessed?

**Please note:** This is a legal proceeding and only written information provided by the Complainants and the written response from the Defendants will be considered per SDCL 49-7A-25. No comments from the parties involved in the complaints will be taken during this call.

Note: Please call (605) 863-0951 at least one hour prior to the call for call-in instructions. We have limited ports available on the conference bridge, so if you do plan to call in, we ask that you conference in on one line.