

5. One-Call, pursuant to SDCL 49-7A-17, has the authority to receive complaints against persons who violate provisions of SDCL chapter 49-7A and rules promulgated by One-Call and, pursuant to SDCL 49-7A-18 and 49-7A-19, assess civil penalties against persons found to have violated these laws.

6. On August 23, 2011, pursuant to SDCL 49-7A-17, One-Call received two complaints filed by South Eastern Electric Cooperative, Inc. against Defendant.

7. Defendant filed an answer to the complaint in docket OC11-007 ("First Complaint") and to the complaint in docket OC11-008 ("Second Complaint") on October 11, 2011.

8. A five member panel (the "Panel") was, therefore, appointed by the Chairman of One-Call pursuant to SDCL 49-7A-22 to determine whether probable cause existed to believe violations of SDCL 49-7A-5 and 49-7A-8 occurred as alleged in the Complaint. The panel found probable cause to believe that the violations occurred.

9. A copy of the One-Call Panel's recommendations was sent to the parties. Defendant disputed the Panel's findings and requested a hearing. Defendant later agreed to pay the civil penalty and requested the hearing be cancelled.

10. Defendant's cancelation of the hearing constitutes acceptance of the Panel's recommendation per SDCL 49-7A-27.

11. The Panel's recommendation for the First Complaint included a suspended fine based on Defendant's compliance with certain conditions, including payment of the portion which was not suspended. Failure to satisfy the aforementioned condition resulted in civil penalties against Defendant in the First Complaint of Two Thousand Dollars (\$2,000). A civil penalty of \$2,500 was assessed for the Second Complaint. A complete copy of the recommendations of the Panel in OC11-007 is attached as Exhibit B.

12. The Panel's recommendation for the Second Complaint was a fine in the amount of Two Thousand Five Hundred Dollars (\$2,500). A complete copy of the recommendations of the Panel in OC11-008 is attached as Exhibit C.

13. One-Call adopted the recommendations of the Panel in both complaints on January 25, 2012. The Orders, incorporating the conditions, were sent to Defendant on January 26, 2012. Defendant neither appealed the One-Call decision nor met the conditions in the Order, and accordingly, owes \$4,500 in civil penalties.

14. One-Call made a written demand to Defendant for payment of the civil penalties as required by SDCL 49-7A-33. The demand letter was sent to Defendant on March 2, 2012.

15. At the request of One-Call, the Commission brought an action in the court against Defendant to recover such penalty in accordance with SDCL 49-7A-28.

16. Defendant has neither paid anything to the Commission nor One-Call in satisfaction of the \$4,500 civil fine levied by One-Call. Further, Defendant has not given any indication to the Commission or One-Call that he intends to pay the fines.

WHEREFORE, Plaintiff requests that the Court enter judgment by default against Defendant as follows:

1. For a monetary judgment in the amount of \$4,500 against Defendant.

Dated this 8th day of February, 2013.



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