

**RESPONSE OF DON RUNGE TO COMPLAINT OF
SOUTHEASTERN ELECTRIC COOPERATIVE, INC.**

Case No. OC11-007

Date of Incident: May 31, 2011

Location: 69th & Medary, Sioux Falls, SD

Please consider this the response of Don Runge to the complaint of Southeastern Electric Cooperative, Inc. (OC11-007) dated August 23, 2011.

On May 31, 2011, Don Runge was working near the intersection of 69th Street and Medary Avenue in Sioux Falls, South Dakota, when he hit a Southeastern Electric cable. Mr. Runge hit the cable due to inaccurate information that had been provided to him by Southeastern Electric at the preconstruction meeting which took place on May 20, 2011. Specifically, at the preconstruction meeting, Mr. Runge spoke with Roger Smith, of Southeastern Electric, who informed Mr. Runge that all of Southeastern Electric's cables were buried four to five feet deep in the areas where Mr. Runge would be working. A copy of the preconstruction meeting minutes is attached to this response. On page 3, Section 4(d)(6) of the Preconstruction Meeting Minutes, Southeastern Electric only expressed concern that it's duct bank be protected on the north side of 69th Street with regard to the proposed 36 inch storm sewer. Section 4(d)(6) states:

Southeastern Electric has a duct bank along the north side of 69th Street which crosses the alignment of the proposed 36" RCP storm sewer on Tall Grass Avenue at Sta. 199+55. The Contractor will expose and verify the elevation of this crossing prior to beginning the installation of the 36" RCP."

Roger Smith, of Southeastern Electric, expressed no concern to Don Runge about Runge's work in the 69th Street area because he knew that Mr. Runge's work would not reach the cable which he said was four to five feet deep.

On May 31, 2011, Mr. Runge had just started work at the intersection of 69th and Medary. Mr. Runge was only working about eight inches below grade when he hit the Southeastern cable at issue. After the cable was hit, Tim Chance of Southeastern Electric arrived on the scene. At that time, Mr. Runge was still working in the general area, but away from the Southeastern cable and was removing dead street light lines that were to be removed. Mr. Runge believes that Mr. Chance was of the belief that Mr. Runge was damaging live lines at that time. Mr. Runge attempted to explain that the lines were dead and that the Southeastern cable was immediately below grade and not anywhere near the depth represented by Mr. Smith at the preconstruction meeting. Mr. Chance called the Sioux Falls police who came out to the scene. Mr. Runge does not dispute that there was a bottle of beer in his excavator, however, Mr. Runge denies that he was under the influence of alcohol. Mr. Runge drank one beer after 6:00 p.m. The police officers had Mr. Runge perform three separate PBT tests and those registered no alcohol. The police took no action and left the site.

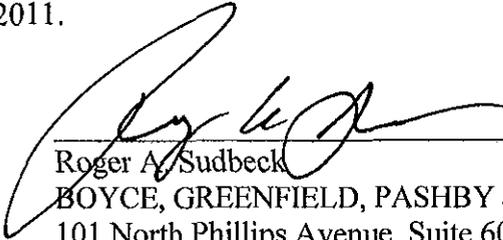
Shortly thereafter, Roger Smith arrived on the scene and Mr. Runge complained to him that he had not accurately stated the depth of the Southeastern cable. Mr. Smith agreed that the cables were not as deep as he had thought and told Mr. Runge that he would only ask Mr. Runge to pay for the temporary power outage. Mr. Runge explained that although he did not feel as though he had done anything wrong, he would be willing to pay for the temporary power which is typically a nominal charge. Mr. Smith also acknowledged that since the line was not as deep as he had thought, Southeastern Electric would have to move the whole cable deeper.

In its complaint, Southeastern claims that the cable had 36 inches of cover. This claim is absolutely not correct. As indicated above, Mr. Runge hit the cable at about eight inches below grade. Additionally, Southeastern Electric is claiming the costs for moving their entire length of

cable in this area despite the fact that these lines would be required to be lowered in any event because they were not deep enough. It is the power industry's standard to bury power lines at four feet or more.

In conclusion, Mr. Runge regrets the incident, however, at the time he was operating, he understood the cables in question to be four feet to five feet below grade.

Dated this 10th day of October, 2011.



Roger A. Sudbeck
BOYCE, GREENFIELD, PASHBY & WELK, L.L.P.
101 North Phillips Avenue, Suite 600
P.O. Box 5015
Sioux Falls, SD 57117-5015
(605) 336-2424
Attorneys for Don Runge