

BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT)	ENFORCEMENT PANEL
BY SOUTHEASTERN ELECTRIC)	RECOMMENDATION TO
COOPERATIVE, INC. AGAINST)	THE SD ONE CALL BOARD
DON RUNGE)	

OC11-008

On August 23, 2011, the South Dakota Public Utilities Commission received a complaint from Southeastern Electric Cooperative, Inc. (herein "Southeastern") against Don Runge (herein "Runge").

The complaint alleges several violations of One Call statutes and rules including:

- Runge failed to properly identify his excavation area. As a result the locate ticket was not sufficient and amounts to a failure to call.
- Facility damage occurred as a result of the excavation.
- Excavation was not performed in a careful and prudent manner.

Runge first requested a reply extension on September 9, 2011. The extension was granted until September 30, 2011. A second extension was requested on September 29, 2011. It too was granted until October 19, 2011.

On October 11, 2011 Runge replied stating that regardless of whether his One Call locate request was proper, the line was located. He states further that the cause for hitting the cable was the inaccurate information regarding depth of burial provided by Southeastern at a preconstruction meeting.

On October 28, 2011, pursuant to SDCL 49-7A-22 a panel of five One Call Board members (herein "Panel") convened. The Panel met to determine whether probable cause exists to believe the violation occurred as described in the complaint.

The Panel found probable cause exists to believe a violation of SDCL 49-7A-5 occurred. Specifically, the panel found Runge excavated without a properly contacting One Call to have facilities marked. This violation was only weeks after a previous violation. As a result the Panel found Runge intentionally violated SDCL 49-7A-5.

As such the Panel looked to SDCL 49-7A-19 to determine proper penalties. The Panel found it proper to assess a Two Thousand and Five Hundred Dollar (\$2,500) penalty. The Panel penalty recommendation is based on: the excavation proximity and potential effect on a hospital, failure to address plans to comply with applicable statute and rules in the future and history of previous violations. **The entire Two Thousand Five Hundred Dollar (\$2,500) penalty is due within thirty days of issuance of the final SD One Call Board Order if this recommendation is accepted.**

The Panel recommends the South Dakota One Call 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 you must reply within twenty 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.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile by first class mail, or by other electronic means.


Larry L. Janes, Executive Director

Date 11-1-2011

**REQUEST FOR A HEARING
COMPLAINT OC11-008**

**I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC11-008
AND REQUEST A HEARING.**

Signature – Don Runge

Date

**I REJECT THE COMMITTEE RESOLUTION TO COMPLAINT OC11-008
AND REQUEST A HEARING.**

Signature – Tim Chance

Date

**YOUR REQUEST FOR A HEARING MUST BE SENT TO ALL OTHER
PARTIES INCLUDING:**

**SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
C/O SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
500 E. CAPITOL AVE.
PIERRE, SD 57501-5070**

**Failure to request a hearing, results in acceptance of the Enforcement
Committee's recommendation. In that case, the One Call Board will Order the
recommendation as the final disposition of this Complaint.**