

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC COMPANY	)	
_____	)	
ALLEGED FAILURE TO COMPLY WITH KRS	)	CASE NO.
278.042	)	2013-00373

ORDER

By Order dated October 24, 2013, the Commission initiated this proceeding to determine whether Louisville Gas and Electric Company ("LG&E") should be subject to the penalties prescribed in KRS 278.990 for multiple possible violations arising under KRS 278.042, which requires an electric utility to construct and maintain its plant and facilities in accordance with the most recent edition of the National Electrical Safety Code ("NESC"), and 807 KAR 5:006, Section 25, which requires each utility to adopt and execute a safety program, and to establish a safety manual with written guidelines for safe working practices and procedures to be followed by utility employees.

ALLEGED SAFETY VIOLATIONS

The nine alleged violations of the NESC and LG&E's safety manual as cited by the Commission's October 24, 2013 Order are set forth in detail in that Order and in the Stipulation of Facts and Settlement Agreement ("Stipulation") which is attached hereto as an Appendix to this Order and incorporated herein by reference. The alleged violations can be summarized and structured into five areas:

1. Failure to properly phase the conductors prior to connecting the two conductors.
  - a. NESC, Part 3, Section 31, Rule 313.A.3
  - b. NESC, Part 4, Section 42, Rule 420.C.4
  - c. LG&E Health & Safety Manual, A.2.1 (Individual Responsibility)
  - d. LG&E Health & Safety Manual, E.8.6 (Entering Underground Structures)
2. Failure to work on only one energized conductor at a time.
  - a. LG&E Health & Safety Manual, E.5.7 (Work on Energized Equipment – URD)<sup>1</sup>
  - b. LG&E Health & Safety Manual, E.9.7 (Work on Energized Cables, Manholes or Vaults)
3. Failure to lock access grate to utility vault. NESC, Part 3, Section 32, Rule 323.E.3.
4. Failure to button sleeves while performing work on energized underground cables. LG&E Health & Safety Manual, E.5.8 (Work on Energized Equipment – URD).
5. Failure to use an approved nonconductive ladder to gain access to the vault. LG&E Health & Safety Manual, E.8.4 (Entering Underground Structures).

### PROCEDURAL HISTORY

The violations cited in the Commission's October 24, 2013 Order arise from a May 23, 2013 incident in which Mr. Seneca Newton, an LG&E employee, sustained injuries after reconnecting an energized 480-volt line on a job site in Louisville, Kentucky. On November 13, 2013, LG&E filed a response to the Commission's October 24, 2013 show cause Order. An informal conference was held at the Commission's offices on January 17, 2014. Discussions in the course of the informal conference led to the filing of the Stipulation on April 1, 2014. The Stipulation sets forth

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<sup>1</sup> "URD" is an acronym used to represent Underground Residential Distribution in the LG&E Health & Safety Manual.

an agreed-upon summary of the facts, discusses the remedial actions taken, and provides for the payment of \$7,500.00 in full settlement of this proceeding.

### STIPULATION

In determining whether the terms of the Stipulation are in the public interest and are reasonable, the Commission has taken into consideration the comprehensive nature of the Stipulation and LG&E's actions taken after the incident, as well as the agreed-upon remedial actions, including:

1. Modifying its safety manual to clearly permit use of a fixed non-dielectric ladder in underground facilities.
2. Discussing the importance of phase testing lines, wearing flame-resistant clothing, and taping of conductors at tailgate sessions, and holding quarterly safety meetings following the incident.

Based on the evidence of record and being otherwise being sufficiently advised, the Commission finds that the Stipulation is in accordance with the law and does not violate any regulatory principal. The Stipulation is a product of arm's-length negotiations among capable, knowledgeable parties, is in the public interest, and results in a reasonable resolution of all issues in this case.

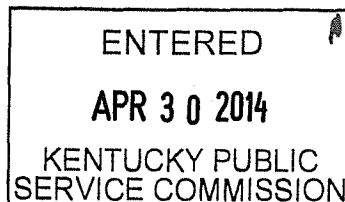
#### IT IS THEREFORE ORDERED THAT:

1. The Stipulation is adopted and approved in its entirety as a complete resolution of all issues in this case.
2. LG&E is assessed a civil penalty of \$7,500.00.
3. LG&E shall pay the amount of \$7,500.00 within 30 days of the date of this Order by cashier's check or money order made payable to the Kentucky State Treasurer

and mailed to be delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, P. O. Box 615, Frankfort, KY 40602.

4. Upon the payment of \$7,500.00 by LG&E, this case shall be closed and removed from the Commission's docket without further Order by the Commission.

By the Commission



ATTEST:

  
\_\_\_\_\_  
Executive Director

Case No. 2013-00373

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2013-00373 DATED **APR 30 2014**



**Steven L. Beshear**  
Governor

**David L. Armstrong**  
Chairman

**Leonard K. Peters**  
Secretary  
Energy and Environment Cabinet

Commonwealth of Kentucky  
**Public Service Commission**  
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Telephone: (502) 564-3940  
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**James W. Gardner**  
Vice Chairman

**Linda Breathitt**  
Commissioner

April 1, 2014

Jeff Derouen  
Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602

Re: Case No. 2013-00373  
Louisville Gas and Electric Company Alleged Failure to Comply with KRS  
278.042

Dear Mr. Derouen:

Enclosed for filing is the Stipulation of Facts and Settlement Agreement entered into between Commission Staff and Louisville Gas and Electric Company. Please bring this document to the Commission's attention for its review and consideration

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Beyer".

Jonathan Beyer  
Staff Attorney

Enclosure

cc: Parties of Record

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COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC	)	
COMPANY	)	
_____	)	CASE NO. 2013-00373
	)	
ALLEGED FAILURE TO COMPLY WITH	)	
KRS 278.042	)	

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated October 24, 2013, the Commission initiated this proceeding to determine whether Louisville Gas and Electric Company ("LG&E") should be subject to the penalties prescribed in KRS 278.990 for alleged violations of KRS 278.042, which requires an electric utility to construct and maintain its plant and facilities in accordance with accepted engineering practices as set forth in the Commission's administrative regulations and orders and in the most recent edition of the National Electrical Safety Code ("NESC"), and for alleged violations of LG&E's safety manual.

The nine alleged violations of LG&E's safety manual and the NESC, as cited by the Commission's October 24, 2013 Order, can be structured into five areas:

1. Failure to properly phase the conductors prior to connecting the two conductors.
  - a. NESC, Part 3, Section 31, Rule 313.A.3 – General Requirements applying to Underground Lines – Tests – When considered necessary, lines and equipment shall be subjected to practical tests to determine required maintenance.
  - b. NESC, Part 4, Section 42, Rule 420.C.4 – General Rules for Employees – Safeguarding Oneself and Others – Employees who work on or in the vicinity of energized lines shall consider all of the effects of their actions, taking into

account their own safety as well as the safety of other employees on the job site, or on some other part of the affected electric system, the property of others, and the public in general.

c. LG&E Health & Safety Manual, A.2.1 (Individual Responsibility) – General Rules – Individual Responsibility – It is the responsibility of each employee to perform assigned duties to assure:

- a. Safety to himself or herself.
- b. Safety to fellow employees.
- c. Protection of the public.
- d. Protection of company property

d. LG&E Health & Safety Manual, E.8.6 – Underground Residential Distribution – Entering Underground Structures – Before any work is done on a cable, it shall be identified by an approved method. If there is any doubt as to the identification, work shall not be started until checked and identified by a qualified employee.

2. Failure to work on only one energized conductor at a time.

a. LG&E Health & Safety Manual, E.5.7 – Underground Residential Distribution – Work on Energized Equipment – URD – Only one energized secondary or service conductor shall be worked on at any one time, and protective devices shall be used to insulate or isolate it from all others.

b. LG&E Health & Safety Manual, E.9.7 – Underground Residential Distribution – Work on Energized Cables, Manholes or Vaults – Immediately after each conductor of an energized cable less than 600 volts is cut in two, the ends shall be insulated before another conductor is cut. During the course of the work, only one insulated conductor shall be worked at any one time.

3. Failure to lock access grate to utility vault.

NESC, Part 3, Section 32, Rule 323.E.3 – Underground Conduit System – Vault and Utility Tunnel Access – Where accessible to the public, access doors to utility tunnels and vaults shall be locked unless qualified persons are in attendance to restrict entry by unqualified persons. When vaults and utility tunnels contain exposed live parts,



prominent safety signs shall be visibly posted before entering the vault.

4. Failure to button sleeves while performing work on energized underground cables.

LG&E Health & Safety Manual, E.5.8 – Underground Residential Distribution – Work on Energized Equipment – URD – An approved shirt or coveralls, with full-length sleeves rolled down and cuffs buttoned, shall be worn when work is performed on any energized UG cable or apparatus.

5. Failure to use an approved nonconductive ladder to gain access to the vault.

LG&E Health & Safety Manual, E.8.4 – Underground Residential Distribution – Entering Underground Structures – An approved nonconductive straight ladder shall always be used in entering or leaving a manhole or vault. Climbing into or out of manholes by stepping on cables or hangers is forbidden.

The Commission's Order arose out of an incident which occurred on May 23, 2013. On that date, Seneca Newton, a LG&E employee, sustained injuries while replacing a 480 volt line in the underground network system at 719 West Jefferson Street in Louisville, Kentucky. The job required working out of two vaults, identified as the Park E Z vault and Juvenile vault. The work crew at the incident job site included crew leader Robert Yates, victim Seneca Newton, Matt Bewley and Scott Underwood.

The work assignment required a 480 volt line segment, between the two underground vaults, be de-energized, removed and replaced. Upon de-energizing and severing the line in the Park E Z vault, colored tape was utilized to mark the phases for later reconnection. The cables were then severed in the Juvenile vault, at which point the phases were rolled upon being reconnected. Due to the rolled phases, when the color coordinated cables in the Park E Z vault were reconnected without first phase testing, an arc occurred causing burns to Mr. Newton's right forearm. Mr. Newton was

wearing gloves, but was not wearing his sleeves down and buttoned at the time of the incident.

On November 13, 2013, LG&E filed a response to the Commission's Order. LG&E's response set forth several defenses, including the denial of any willful violations, a particular denial that an employee willfully worked on two conductors at one time, and an assertion that LG&E Health & Safety Manual section E.8.4 does not apply to fixed ladders. LG&E generally agreed with the factual recitation of events contained with the Commission's Order and Accident Investigation Staff Report, except to note that the new conductor was only a section of the conductor between the two vaults. LG&E also noted that the victim was not in the process of connecting new energized secondary conductors but was instead reconnecting existing energized conductors.

At an informal conference held on January 17, 2014, LG&E stated that the victim, Mr. Newton, received a five day suspension for his failure to phase test the cables prior to their reconnection and for failing to properly utilize his flame resistant shirt sleeves. LG&E noted that the issue of phase testing was addressed at tailgating meetings. LG&E stated that it agreed that failing to phase test, failing to correctly utilize flame resistant shirt sleeves and failing to lock the vault violated the respective NESC and its Safety Manual provisions. It disputed the appropriateness of several violations, particularly the allegation that the victim was willfully working on two energized conductors and the use of an allegedly improper fixed non-dielectric ladder.

As a result of information provided by LG&E, and negotiations between Commission Staff and LG&E in the course of the informal conference, LG&E and the Commission Staff submit the following Stipulation of Facts and Settlement Agreement

("Stipulation") for the Commission's consideration in rendering its decision in this proceeding:

1. LG&E agrees that the Accident Investigation Staff Report ("Report"), Exhibit A to the Commission's October 24, 2013 Order in this case, accurately describes and sets forth the facts and circumstances surrounding the incident giving rise to the Order, except as noted in numbered paragraph 2 to its November 13, 2013 Response.

2. LG&E has modified its safety manual to clearly permit usage of a fixed non-dielectric ladder in underground facilities.

3. During tailgate sessions following the incident and at a quarterly safety meeting on September 18, 2013, LG&E discussed with employees and contractors the importance of phase testing lines, wearing flame resistant clothing and taping of conductors.

4. LG&E agrees to pay the amount of \$7,500 in full settlement of the proceeding. The scope of this proceeding is limited by the Commission's October 24, 2013 Order to whether LG&E should be assessed penalties under KRS 278.990 for multiple alleged violations of the NESC rules as made applicable under KRS 278.042, and for multiple violations of its safety manual, with each violation having a potential penalty of \$2,500. Neither the payment of \$7,500, nor any agreement contained in this Stipulation, shall be construed as an admission by LG&E of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the Report, nor shall the Commission's acceptance of this Stipulation be construed as a finding of a willful

violation of any Commission regulation, NESC rule, or rules within LG&E's safety manual.

5. In the event that the Commission does not accept this Stipulation in its entirety, LG&E reserves its right to withdraw therefrom and require that a hearing be held on any and all issues herein, and that none of the provisions contained herein shall be binding upon the parties hereto, used as an admission by LG&E of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the Report, or otherwise used as an admission by either party.

6. This Stipulation is for use in Commission Case No. 2013-00373. None of the provisions in this Stipulation establishes any precedent for any other case and neither LG&E nor Staff shall be bound by any part of this Stipulation in any other proceeding, except that this Stipulation may be used in any proceeding by the Commission to enforce the terms of this Stipulation or to conduct a further investigation of LG&E's service, and LG&E shall not be precluded or estopped from raising any issue, claim, or defense, therein by reason of the execution of this Stipulation.

6. LG&E and Staff agree that the foregoing Stipulation is reasonable, is in the public interest, and should be adopted in its entirety by the Commission. If so adopted by the Commission, LG&E agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

**Louisville Gas and Electric Company**

By *John Wayne*

Title DIRECTOR - ELECTRIC DISTRIBUTION

Date 3/27/14

**Staff of the Kentucky Public Service Commission**

By *Justin Ryan*

Title STAFF ATTORNEY II

Date 4/1/14

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