



Mailing Address:
139 East Fourth Street
1212 Main / P.O. Box 960
Cincinnati, Ohio 45202
o: 513-287-4315
f: 513-287-4386

VIA HAND DELIVERY

June 16, 2014

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Blvd
Frankfort, KY 40601

RECEIVED

JUN 16 2014

PUBLIC SERVICE
COMMISSION

Re: Case No. 2014-00165
In the Matter of Duke Energy Kentucky, Inc. – Alleged Failure to Comply with KRS
278.042

Dear Mr. Derouen:

Enclosed please find an original and twelve copies each of the *Response of Duke Energy Kentucky, Inc.* in the above captioned case.

Please date-stamp the extra two copies of the filing and return to me in the enclosed envelope.

Sincerely,

A handwritten signature in cursive script that reads 'Kristen Ryan'.

Kristen Ryan
Senior Paralegal
kristen.ryan@duke-energy.com

RECEIVED

JUN 16 2014

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DUKE ENERGY KENTUCKY, INC.

Case No. 2014-00165

ALLEGED FAILURE TO COMPLY WITH
KRS 278.042

RESPONSE OF DUKE ENERGY KENTUCKY, INC.

On May 27, 2014, the Kentucky Public Service Commission (Commission) issued an Order directing Duke Energy Kentucky, Inc., (Duke Energy Kentucky) to file a written response to the allegations contained in the Accident Investigation Staff Report (Report) prepared by the Commission Staff and dated January 17, 2014. For its Response to the Commission’s Order, Duke Energy Kentucky states as follows:

1. Duke Energy Kentucky admits that the information contained on page 2 of the Report, consisting of those sections titled “Utility,” “Reported By,” “Incident Occurred,” “Utility Discovered,” “PSC notified,” “Report Received (E-mail),” “Report Received (Mail),” “Meeting with Duke (Additional Information),” “Incident Location,” and “Incident Description” is accurate.
2. With regard to the information contained on page 3 of the Report, which is a continuation of the “Incident Description,” Duke Energy Kentucky denies that there was not a job briefing completed before this job was started. While no written job briefing form was completed, there was a verbal discussion of hazards prior to the crew beginning their outage investigation. It was only after the outage investigation was completed, and it was

determined what equipment would be needed to conduct the repairs, that a written job briefing form would be filled out. Duke Energy Kentucky admits, based upon its investigation, that the remainder of the information contained in the “Incident Description” contained on Page 3 is accurate. Duke Energy Kentucky admits that the information contained on page 3 of the Report in the sections thereof titled “Victim,” “Witnesses,” “Employees at job site but did not witness accident,” and “Information From” is accurate.

3. With regard to information contained on page 4 of the Report, Duke Energy Kentucky admits that the information described in the sections titled “Line/Equipment Measurements/Clearances,” “Temperature & Weather,” and “Measurements Made By” is accurate.
4. With regard to the section of the Report titled “Findings,” Duke Energy Kentucky denies that it committed a willful violation of Kentucky Revised Statutes (KRS) 278.042, Commission Regulations, the National Electric Safety Code (NESC) or the Safety Manual.
5. With regard to the information contained in the section of the Report titled “Relevant Codes, Statutes, Regulations, or Safety Manual Issues that Are Pertinent to the Investigation,” Duke Energy Kentucky admits the regulations, code sections, statutes, and safety manual sections are accurately stated.
6. With regard to Attachment A to the Report, Duke Energy Kentucky admits that it is an accurate copy of the Utility Incident Report submitted by Duke Energy Kentucky. Duke Energy Kentucky admits that the photographs contained in Attachment A to the Report are accurate.

7. With regard to Attachment B to the Report, Duke Energy Kentucky admits that it is an accurate copy of Utility Additional Information provided by Duke Energy Kentucky, but denies that said information establishes a willful violation of KRS 278.042, Commission Regulations, the NESC or the Safety Manual.

FIRST AFFIRMATIVE DEFENSE

8. With regard to numerical alleged violations Nos. 1a), 1b), 1c), 1d), and 1e) contained in the Commission's Order of May 27, 2014, alleging failure to observe proper safety procedures on the job site to ensure safety of all individuals involved, Duke Energy Kentucky states:
 - a. With regard to alleged violation 1a), the crew was called out during a storm event and a field supervisor was not on site. The senior person in charge, as well as, all employees, has the responsibility to follow safety rules and procedures.
 - b. With regard to alleged violation 1b), the crew was in storm assessment mode and did conduct a job briefing of the task that included identification of possible hazards, status of transmission circuit, as well as, the possibility of distribution under-build still being energized. A written job briefing form was not required as no physical restoration work was being performed.
 - c. With regard to alleged violation 1c), the employees identified the electrical hazard and maintained a proper safe distance of 10-12 feet clearance from the pole and equipment as they assessed the damage needing repair. Upon information and belief, the incident occurred because the employee may have slipped and fallen due to the wet conditions and slope of the terrain after the visual inspection had concluded but prior to any actual restoration work was performed.

- d. With regard to alleged violation 1d), the employees held a verbal job briefing before entering the right-of-way to search for information as to why the feeder was locked out and to determine what material or equipment would be needed to make repairs. A written job briefing form was not required for walking assessment of storm restoration prior to actual restoration work. At the time of the incident, the crew had just finished the walking assessment but had not started physical repairs. Therefore, a new task was not started and a job briefing form was not needed. The crew on site was nearing the end of its shift and due to the extent of damage assessed, would not have completed the repairs. A new crew would have been dispatched prior to work being performed.
- e. With regard to alleged violation 1e), the crew lead person held a verbal discussion of hazards and job assessment with the other employees on site to discuss potential dangers, who would walk the right of way, and where the employees would meet to pick up the person from walking the right of way. The crew discussed the fact that wires were to be considered energized as there was no isolation or grounding, and that the O.V.E.C. utility line that crossed over the existing line that was down and energized and could induce static on the down line.

SECOND AFFIRMATIVE DEFENSE

- 9. With regard to numerical alleged violations Nos. 2a), 2b), 2c), 2d), and 2e) contained in the Commission's Order of May 27, 2014, alleging failure to wear proper personal protective (PPE) and fire resistant clothing, Duke Energy Kentucky states that the Company maintains policies and procedures through its Safety Manual that are consistent

with and incorporate relevant portions of the NESC and that are designed to protect its employees, including the provision of PPE. Duke Energy Kentucky regularly trains its employees on the use and necessity of PPE.

THIRD AFFIRMATIVE DEFENSE

10. With regard to numerical alleged violations Nos. 3a), 3b), and 3c) contained in the Commission's Order of May 27, 2014, alleging failure to observe the required minimum assured distances to energized lines or parts, the employees identified the electrical hazard and maintained a proper safe distance. Upon information and belief, the injury occurred when the employee may have slipped and fallen due to the wet conditions and slope of the terrain. This occurred after the visual inspection of the line was completed and the crew began to return to their vehicles.

FOURTH AFFIRMATIVE DEFENSE

11. Duke Energy Kentucky notes that KRS 278.990 authorizes the assessment of penalties only when a person willfully violates a Commission statute or regulation or fails to obey a Commission Order. In this case, neither the Company nor its employees willfully violated a Commission statute, or regulation, or failed to obey a Commission Order.

NOW, THEREFORE, Duke Energy Kentucky requests that the case be dismissed, or in the alternative, that the hearing date of September 9, 2014, be suspended and an informal conference be scheduled with the Commission Staff for the purpose of discussing settlement and expediting resolution of this proceeding. Duke Energy Kentucky's willingness to discuss settlement is not, and should not be construed as, an admission of liability on its part.

Respectfully submitted,

DUKE ENERGY KENTUCKY, INC.

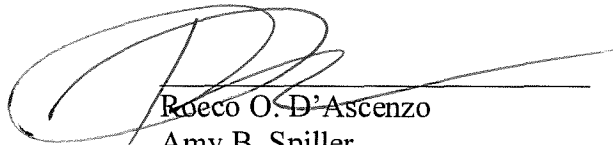


Rocco O. D'Ascenzo (92796)
Associate General Counsel
Amy B. Spiller (85309)
Deputy General Counsel
Duke Energy Kentucky, Inc.
139 East Fourth Street, 1303 Main
Cincinnati, Ohio 45202
Phone: (513) 287-4320
Fax: (513)287-4385
e-mail:rocco.d'ascenzo@duke-energy.com

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Response has been served via hand delivery to the following party on this 16th day of June, 2014:

Staff Counsel
Kentucky Public Service Commission
211 Sower Blvd.
Frankfort, Kentucky 40601



Rocco O. D'Ascenzo
Amy B. Spiller