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November 3, 2014

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

Re: Case No. 2014-00263
Duke Energy Kentucky, Inc. Alleged Failure to Comply with 807 KAR
5:027, Section 3

Dear Mr. Derouen:

Enclosed for filing is the Stipulation of Facts and Settlement Agreement entered into between Commission Staff and Duke Energy Kentucky, Inc. 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

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DUKE ENERGY KENTUCKY, INC.)
_____))
ALLEGED FAILURE TO COMPLY WITH) CASE NO. 2014-00263
807 KAR 5:027, SECTION 3)

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated August 7, 2014, the Commission initiated this proceeding to determine whether Duke Energy Kentucky, Inc. ("Duke Energy") should be subject to the penalties prescribed in KRS 278.992, which establishes penalties for violations of certain pipeline safety laws.

KRS 278.495 authorizes the Commission to regulate the safety of natural gas violations owned or operated by a public utility. This action was commenced regarding the potential violation of 807 KAR 5:027, Section 3, which provides in part:

At the earliest practicable moment but no later than two (2) hours following discovery, each utility shall give notice to the commission in accordance with subsection (3) of this section of any incident that: (a) Is reported to USDOT pursuant to 49 CFR Part 191, Federal Pipeline Safety Regulations. (b) Requires taking any segment of pipeline or mains out of service. (c) Results in gas ignition. (d) Causes estimated damage to property of the utility, or others, or both, of \$25,000 or more. (e) Results in the loss of service to forty (40) or more customers for four (4) or more hours. (f) Causes the loss of a sizable amount of gas. (g) Received extensive news coverage, or in the judgment of the utility is significant, even though it does not meet the criteria of paragraphs (a) through (g) of this subsection.

The Commission's Order arose out of an incident which occurred on January 25, 2013. At approximately 4:30 a.m., a house exploded at 1615 Water Works Road in Newport, Kentucky. Two of the three occupants were hospitalized with injuries and one of the two individuals died three days later from injuries received in the explosion.

At approximately 6:33 a.m. on January 25, 2013, Duke Energy Gas Control personnel informed the Kentucky Emergency Operations Center of the incident. At 11:04 a.m., Duke Energy directly notified the Commission of the explosion.

On August 26, 2014, Duke Energy filed a response to the Commission's Order. In its response, Duke Energy sets forth several defenses to the alleged violation. It first states that Duke Energy, in good faith, believed notifying the Kentucky Emergency Operations Center was sufficient to provide notice to the Commission, in accordance with a Commission issued emergency notification document. Second, it notes that the subsequent to the incident, the Commission emergency notification document was modified to remove the reference to the Kentucky Emergency Operations Center. Duke Energy generally agreed with the information contained in the Incident Investigation Report attached as an Appendix to the Commission's August 7, 2014 Order.

At an informal conference held on September 25, 2014, Duke Energy stated that it did not willfully fail to directly notify the Commission within two hours of the incident and believed due to the ambiguity of the Commission's emergency notification document that no willful violation was committed.

As a result of information provided by Duke Energy, and negotiations between Commission Staff and Duke Energy in the course of the informal conference, Duke Energy 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. Duke Energy agrees that the Incident Investigation attached as an Appendix to the Commission’s August 7, 2014 Order in this case, accurately describes and sets forth the facts and circumstances surrounding the incident giving rise to the Order.

2. Duke Energy has submitted to the Commission hard copies of its incident notification procedures.

3. Duke Energy agrees to pay the amount of \$1,000 in full settlement of the proceeding. The scope of this proceeding is limited by the Commission’s August 7, 2014 Order as to whether Duke Energy should be assessed penalties under KRS 278.992 for an alleged violation of the 807 KAR 5:027, Section 3, Telephonic Notice of Certain Incidents, promulgated consistent with Federal Pipeline Safety regulations as made applicable under KRS 278.495. Neither the payment of \$1,000, nor any agreement contained in this Stipulation, shall be construed as an admission by Duke Energy 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, statute, or rules within Duke Energy’s safety manual.

4. In the event that the Commission does not accept this Stipulation in its entirety, Duke Energy reserves the 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 Duke Energy

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.

5. This Stipulation is for use in Commission Case No. 2014-00263. None of the provisions in this Stipulation establishes any precedent for any other case and neither Duke Energy 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 Duke Energy's service, and Duke Energy shall not be precluded or estopped from raising any issue, claim, or defense, therein by reason of the execution of this Stipulation.

6. Duke Energy 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, Duke Energy agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

Duke Energy Kentucky, Inc.

By  (Kevin O. D'Asenzo)

Title Associate General Counsel

Date 10-31-12

Staff of the Kentucky Public Service Commission

By *Joseph T. Beyer*

Title *Staff Attorney II*

Date *11/3/2014*