

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JACKSON PURCHASE ENERGY)
CORPORATION)
_____) CASE NO. 2014-00437
)
ALLEGED FAILURE TO COMPLY WITH)
KRS 278.042)

ORDER

By Order dated January 6, 2015, the Commission initiated this proceeding to determine whether Jackson Purchase Energy Corporation (“JPEC”) should be subject to the penalties prescribed in KRS 278.990 for alleged 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”), 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, and also 807 KAR 5:006, Section 27, which requires reporting of certain accidents.

ALLEGED SAFETY VIOLATIONS

The alleged violations of the NESC and JPEC’s safety manual as cited by the Commission’s January 6, 2015 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 and incorporated herein by reference. The nine alleged violations can be summarized and structured into four areas:

1. Failure to observe proper safety procedure on the job site to ensure the safety of all individuals involved.

- a. NESC, Part 4, Section 42, Rule 420.C.4 – Work Rules for the Operation of Electric Supply and Communication Lines and Equipment–General Rules for Employees–General–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.
- b. NESC, Part 4, Section 42, Rule 421.A.1 – Work Rules for the Operation of Electric Supply and Communication Lines and Equipment–General Rules for Employees–General Operating Routines–Duties of a first-line Supervisor or person in charge. This person shall adopt such precautions as are within the individual’s authority to prevent accidents.
- c. NESC, Part 4, Section 42, Rule 421.A.2 – Work Rules for the Operation of Electric Supply and Communication Lines and Equipment–General Rules for Employees–General Operating Routines–Duties of a first-line Supervisor or person in charge. This person shall see that all safety rules and operating procedures are observed by employees under the direction of this individual.

2. Failure to wear proper personal protective equipment (“PPE”).

- a. NESC, Part 4, Section 42, Rule 420.H – Work Rules–General Rules for Employees–General–Tools and Protective Equipment–Employees shall use the personal protective equipment, the protective devices, and the special tools provided for their work. Before starting work, these devices and tools shall be carefully inspected to make sure they are in good condition.
- b. NESC, Part 4, Section 44, Rule 441.A.1.a/b – Work Rules–Additional Rules for Supply Employees–Energized Conductors and Parts–Minimum Approach Distance to Energized Lines or Parts–General–Employees shall not approach or bring conductive objects within the minimum approach distance listed in Table 441-1 or Table 441-4 or distances as determined by an engineering analysis to

exposed parts unless one of the following is met: a. The line or part is de-energized and grounded per Rule 444D; b. The employee is insulated from the energized line or part. Electrical protective equipment insulated for the voltage involved, such as tools, rubber gloves, or rubber gloves with sleeves, shall be considered effective insulation for employee from energized line or part being worked on.

- c. NESC Part 4, Section 44, Rule 441.A.1.a/b – Work Rules–Additional Rules for Supply Employees - Work on Energized Lines and Equipment–General Requirements–When working on energized lines and equipment, one of the following safeguards shall be applied: a. Insulate employees from energized parts; b. Isolate or insulate the employee from ground and grounded structures, and potentials other than the one being worked on.

3. Failure to observe the required minimum approach distance (“MAD”) to energized lines or parts.

- a. NESC, Part 4, Section 42, Rule 420.C.5 – Work Rules for the Operation of Electric Supply and Communication Lines and Equipment–General Rules for Employees–General–Safeguarding Oneself and Others–No employee shall approach or bring any conductive object, without a suitable insulating handle, closer to any exposed energized part than allowed by Rule 432 (communication) or Rule 441 (supply), as applicable.
- b. NESC, Part 4, Section 44, Rule 441.A.1 (Table 441-1, pg. 284).

4. Failure to comply with 807 KAR 5:006, Section 27, which states, in pertinent part:

- (1) Within two (2) hours following discovery each utility, other than a natural gas utility, shall notify the commission by telephone or electronic mail of a utility related accident that results in:
 - a. Death or shock or burn requiring medical treatment at a hospital or similar medical facility, or any accident requiring inpatient overnight hospitalization

PROCEDURAL HISTORY

The violations cited in the Commission's January 6, 2015 Order arise from a February 19, 2014 incident in which Dakota Frazier, a T&D Solutions Company employee under contract for JPEC, sustained injuries while performing a pole change out in an overhead three-phase circuit. On January 26, 2015, JPEC filed a response to the Commission's show cause Order. An informal conference was held at the Commission's offices on March 10, 2015. Discussions in the course of the informal conference led to the filing of the Stipulation on April 28, 2015. The Stipulation sets forth an agreed-upon summary of the facts, discusses the remedial actions taken, and provides for the payment of \$10,000.00 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 JPEC's actions taken after the incident as well as the agreed-upon remedial actions, including:

1. Thoroughly reviewing the safety manuals of independent contractor companies as part of JPEC's "pre-qualification" packet during the bidding and hiring process.
2. Agreeing that if the standards set forth in the independent contractor company's safety manual do not meet or exceed the standards set forth in JPEC's own safety manual, adopted from the American Public Power Association manual, JPEC will not hire the independent contractor company unless said company agrees to adopt the JPEC safety manual.

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:

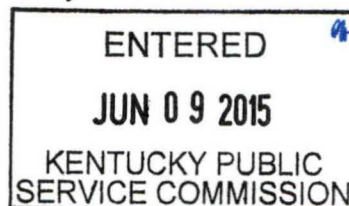
1. The Stipulation is adopted and approved in its entirety as a complete resolution of all issues in this case.

2. JPEC is assessed a civil penalty of \$10,000.00.

3. JPEC shall pay the amount of \$10,000.00 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 \$10,000.00 by JPEC, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

By the Commission



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2014-00437 DATED **JUN 09 2015**

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION



In the Matter of:

JACKSON PURCHASE ENERGY)
CORPORATION)
_____)
ALLEGED FAILURE TO COMPLY WITH)
KRS 278.042)

CASE NO. 2014-00437

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated January 6, 2015, the Commission initiated this proceeding to determine whether Jackson Purchase Energy Corporation ("JPEC") 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"). Additionally, based on Commission Staff's investigation of the incident as set forth in its Incident Investigation Report ("Report") and information provided by JPEC in its utility incident report, the Commission examined whether JPEC should be subject to penalties prescribed in KRS 278.990 for allegedly violating 807 KAR 5:006, Section 27, by failing to notify the Commission of this incident within the time prescribed by the regulation.

The eight alleged violations of the NESC and one alleged violation of 807 KAR 5:006, as cited by the Commission's January 6, 2015 Order, can be structured into the following areas:

1. Failure to observe proper safety procedure on the job site to ensure the safety of all individuals involved.

- a. NESC, Part 4, Section 42, Rule 420.C.4 – Work Rules for the Operation of Electric Supply and Communication Lines and Equipment – General Rules for Employees – General – 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.
- b. NESC, Part 4, Section 42, Rule 421.A.1 - Work Rules for the Operation of Electric Supply and Communication Lines and Equipment – General Rules for Employees – General Operating Routines – Duties of a first-line Supervisor or person in charge. This person shall adopt such precautions as are within the individual's authority to prevent accidents.
- c. NESC, Part 4, Section 42, Rule 421.A.2 - Work Rules for the Operation of Electric Supply and Communication Lines and Equipment – General Rules for Employees – General Operating Routines – Duties of a first-line Supervisor or person in charge. This person shall see that all safety rules and operating procedures are observed by employees under the direction of this individual.

2. Failure to wear proper personal protective equipment ("PPE").

- a. NESC, Part 4, Section 42, Rule 420.H – Work Rules – General Rules for Employees – General – Tools and Protective Equipment – Employees shall use the personal protective equipment, the protective devices, and the special tools provided for their work. Before starting work, these devices and tools shall be carefully inspected to make sure they are in good condition.

NESC, Part 4, Section 44, Rule 441.A.1.a/b – Work Rules – Additional Rules for Supply Employees – Energized Conductors and Parts – Minimum

Approach Distance to Energized Lines or Parts – General – Employees shall not approach or bring conductive objects within the minimum approach distance listed in Table 441-1 or Table 441-4 or distances as determined by an engineering analysis to exposed parts unless one of the following is met: a. The line or part is de-energized and grounded per Rule 444D; b. The employee is insulated from the energized line or part. Electrical protective equipment insulated for the voltage involved, such as tools, rubber gloves, or rubber gloves with sleeves, shall be considered effective insulation for employee from energized line or part being worked on.

- b. NESC Part 4, Section 44, Rule 44.A.1.a/b – Work Rules – Additional Rules for Supply Employees – Work on Energized Lines and Equipment – General Requirements – When working on energized lines and equipment, one of the following safeguards shall be applied: a. Insulate employees from energized parts; b. Isolate or insulate the employee from ground and grounded structures, and potentials other than the one being worked on.

3. Failure to observe the required minimum approach distance (“MAD”) to energized lines or parts.

- a. NESC, Part 4, Section 42, Rule 420.C.5 – Work Rules for the Operation of Electric Supply and Communication Lines and Equipment – General Rules for Employees – General – Safeguarding Oneself and Others – No employee shall approach or bring any conductive object, without a suitable insulating handle, closer to any exposed energized part than allowed by Rule 432 (communication) or Rule 441 (supply), as applicable.
- b. NESC, Part 4, Section 44, Rule 441.A.1 (Table 441-1, pg. 284).

Additionally, 807 KAR 5:006, Section 27 states, in pertinent part:

- (1) Within two (2) hours following discovery each utility, other than a natural gas utility, shall notify the commission by telephone or electronic mail of a utility related accident that results in:

- a. Death or shock or burn requiring medical treatment at a hospital or similar medical facility, or any accident requiring inpatient overnight hospitalization.

The Commission's Order arose out of an incident which occurred on February 19, 2014. On that date, Dakota Frazier, a member of a crew working for T&D Solutions Company, which had been contracted by JPEC to perform line work, sustained injuries while performing a pole change out in an overhead three phase circuit when he, while carrying a guy-line, made contact with the energized bottom phase conductor at 6874 Contest Road, Paducah, McCracken County, Kentucky. After the crew completed the job, Mr. Frazier was taken to the emergency room. Mr. Frazier was treated and released from the emergency room at 7:20 P.M. CST that evening.

The work crew at the incident job site included crew leader Chad Culp, Dakota Frazier, Joe Simmons and Austin Culp. All four members of the incident work crew provided statements to JPEC's incident investigative team. In their statements, all of the crew members, except Mr. Frazier, admitted that Mr. Frazier was not wearing the proper personal protective equipment ("PPE") when he made contact with the conductor.

JPEC learned about this incident and Mr. Frazier's treatment at the emergency room on the day of the incident, February 19, 2014. The next day, February 20, 2014, a representative from JPEC contacted Commission Staff via email at 12:28 P.M. Eastern Standard Time to inform Commission Staff of the incident.

On January 26, 2015, JPEC filed a response to the Commission's Order. JPEC denied the allegations raised in the Commission's January 6, 2015 Order. JPEC asserted that it did not contribute to Mr. Frazier's actions in this incident. JPEC also

contended that it was not in charge of the job site, since the individuals performing the work were not JPEC employees. Finally, JPEC denied that it violated 807 KAR 5:006, Section 27.

An informal conference was held on March 2, 2015 at JPEC's request. JPEC stated that, to its knowledge, T&D Solutions terminated the crew members who were working the job site where the incident at issue occurred. JPEC disputed the appropriateness of the violations, stating that JPEC should not be held responsible for the actions of a single contracted employee who had received instruction regarding the necessary safety equipment prior to the incident in question.

As a result of information provided by JPEC, and negotiations between Commission Staff and JPEC in the course of the informal conference, JPEC 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. JPEC agrees that the Staff's Report Exhibit A to the Commission's January 6, 2015 Order in this case, accurately describes and sets forth facts and circumstances surrounding the incident giving rise to the Order, except for the address of the incident, which was corrected in Exhibit C to the Commission's January 6, 2015 Order.

2. JPEC agrees to thoroughly review the safety manuals of independent contractor companies as part of its "pre-qualification" packet during the bidding and hiring process.

3. JPEC agrees that if the standards set forth in the independent contractor company's safety manual do not meet or exceed the standards set forth in JPEC's own safety manual, adopted from the American Public Power Association manual, JPEC will not hire the independent contractor company unless said company agrees to adopt the JPEC safety manual.

4. JPEC agrees to pay the amount of \$10,000 in full settlement of the proceeding. The scope of this proceeding is limited by the Commission's January 6, 2015 Order to whether JPEC 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 violating 807 KAR 5:006, Section 27, with each violation having a potential penalty of \$2,500. Neither the payment of \$10,000, nor any agreement contained in this Stipulation, shall be construed as an admission by JPEC of any wrongdoing or 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 or NESC rule.

5. In the event that the Commission does not accept this Stipulation in its entirety, JPEC 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 JPEC 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. 2014-00437. None of the provisions in this Stipulation establishes any precedent for any other case and

neither JPEC 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 JPEC's service, and JPEC shall not be precluded or estopped from raising any issue, claim, or defense, therein by reason of the execution of this Stipulation.

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

JACKSON PURCHASE ENERGY CORPORATION

By Gary Joiner
Title Chairman of Board
Date 4/23/15

Staff of the Kentucky Public Service Commission

By [Signature]
Title Staff Attorney II
Date 4/28/15

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