

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

OWEN ELECTRIC COOPERATIVE, INC.)
)
)
) CASE NO. 96-372
ALLEGED VIOLATION OF COMMISSION)
REGULATIONS 807 KAR 5:006 AND 807 KAR 5:041)

O R D E R

On August 13, 1996, the Commission ordered Owen Electric Cooperative, Inc. ("Owen Electric") to show cause why it should not be subject to the penalties of KRS 278.990 for alleged violations of Commission Regulations 807 KAR 5:006, Section 24, and 807 KAR 5:041, Section 3.

Following the commencement of this proceeding, Owen Electric and Commission Staff entered into negotiations to resolve all disputed issues. On October 3, 1996, they executed a Settlement Agreement, which is appended hereto, and subsequently submitted it for Commission approval.

In reviewing this Settlement Agreement, the Commission has considered, inter alia, the seriousness of the violations and Owen Electric's willingness to remedy the violations.


After reviewing the Settlement Agreement and being otherwise sufficiently advised, the Commission finds that the Settlement Agreement is in accordance with the law, does not violate any regulatory principle, results in a reasonable resolution of this case and is in the public interest.

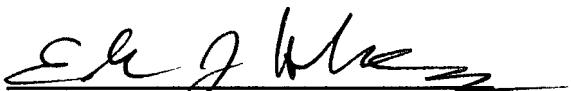
IT IS THEREFORE ORDERED that:

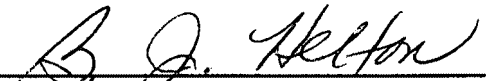
1. The Settlement Agreement, appended hereto, is incorporated into this Order as if fully set forth herein.
2. The terms and conditions set forth in the Settlement Agreement are adopted and approved.
3. Owen Electric is assessed a penalty of Two Hundred and Fifty (\$250) Dollars.
4. Owen Electric shall pay the assessed penalty within 10 days of the date of this Order by check made payable to Treasurer, Commonwealth of Kentucky. Said check shall be mailed or delivered to the Office of General Counsel, Public Service Commission of Kentucky, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602.

Done at Frankfort, Kentucky, this 15th day of October, 1996.


PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

COMMONWEALTH OF KENTUCKY
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SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered this third day of October, 1996, by and between the STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY ("Commission Staff") and OWEN ELECTRIC COOPERATIVE, INC. ("Owen Electric").

WITNESSETH:

THAT, WHEREAS, the Commission Staff issued an Utility Accident Investigation Report dated April 26, 1996 ("Investigation Report"), detailing its investigation of an incident which occurred on March 25, 1996, involving Owen Electric facilities in Boone County, Kentucky; and,

WHEREAS, Commission Staff in its Investigation Report found that an Owen Electric employee had failed to comply with the National Electrical Safety Code and had violated Owen Electric's safety manual. These failures constituted probable violations

of Public Service Commission Regulations 807 KAR 5:006, Section 24,¹ and 807 KAR 5:041, Section 3;² and,

WHEREAS, on August 13, 1996, the Public Service Commission found that prima facie evidence existed that Owen Electric had failed to comply with Public Service Commission Regulation 807 KAR 5:006, Section 24, and 807 KAR 5:041, Section 3; and,

WHEREAS, on August 13, 1996, the Public Service Commission ordered Owen Electric to show cause why it should not be subject to the penalties of KRS 278.990 for

¹ 807 KAR 5:006, Section 24:

Safety Program. Each utility shall adopt and execute a safety program, appropriate to the size and type of its operations. At a minimum, the safety program shall:

- (1) Establish a safety manual with written guidelines for safe working practices and procedures to be followed by utility employees.
- (2) Instruct employees in safe methods of performing their work.
- (3) Instruct employees who, in the course of their work, are subject to the hazard of electrical shock, asphyxiation or drowning, in accepted methods of artificial respiration.

² 807 KAR 5:041, Section 3:

Acceptable Standards. A utility shall construct and maintain its plant and facilities in accordance with good accepted engineering practices. Unless otherwise specified by the commission, the utility shall use applicable provisions in the following publications as standards of accepted good engineering practice for construction and maintenance of plant and facilities, herein incorporated by reference:

- (1) National Electrical Safety Code; ANSI C-2. 1990 Edition, available by contacting the IEEE Service Center, 445 Hoes Lane, P. O. Box 1331, Piscataway, New Jersey 08855-1331. This material is also available for inspection and copying, subject to copyright law, at the offices of the Public Service Commission, 730 Schenkel Lane, P. O. Box 615, Frankfort, Kentucky 40602, Monday through Friday between the hours of 8 a.m. to 4:30 p.m. local time.

its alleged violations of Commission Regulations 807 KAR 5:006, Section 24, and 807 KAR 5:041, Section 3; and,

WHEREAS, Owen Electric and Commission Staff stipulate that:

1. On March 25, 1996, Argust Nelson Popham was injured while attempting to repair a 7,200 volt overhead hot line jumper at 1304 Stephenson Mill Road, Walton, Boone County, Kentucky.
2. At the time of the incident, Mr. Popham came into contact with the 7,200 volt overhead hot line jumper and suffered burns to the fingers of both his hands.
3. At the time of the incident, Mr. Popham was an employee of Owen Electric and acting within the scope of his employment as a service technician.
4. At the time of the incident, Mr. Popham was not wearing the protective rubber gloves which had been issued to him by Owen Electric, having left them in his truck.
5. Mr. Popham was working alone at the time of the incident.
6. NESC, Section 42, Subparagraph 420H, requires employees to use the personal protective equipment, the protective devices, and the special tools provided for their work.
7. Owen Electric's Safety Manual, Section 6, paragraph 602, states that: a) Employees shall not touch or work on any exposed energized lines or apparatus except when wearing protective equipment approved for the voltage to be contacted; b) When work is to be done on or near energized lines, all energized and grounded conductors or guy wires within reach of any part of the body while working shall be covered with rubber protective equipment, except that part of the conductor on which the employee is to work; f) Protective equipment shall be put on before entering the working area within which energized line or apparatus may be reached and shall not be removed until the employee is completely out of reach of this area.

8. Owen Electric's Safety Manual, Section 6, paragraph 604, states that: c) Rubber gloves are recommended to be worn while working on any pole or other structure on which energized lines or equipment are located, on which lines and equipment that could be energized are located, or that are located close to energized lines or equipment where an employee could make contact. The rubber gloves should be put on before the employee ascends a pole or structure or raises an aerial device off the ground or device's cradle. Furthermore, employees should not remove the gloves until they have descended the pole or structure or returned the aerial device to the ground or cradle. As a minimum requirement, gloves should be put on before the employee comes within falling or reaching distance (in any event not less than 5 feet) of unprotected energized circuits or apparatus or those which may become energized, and they shall not be removed until the employee is entirely out of falling or reaching distance of such circuits or apparatus; d) [R]ubber gloves shall be worn during the following conditions: 1) Working on or within falling or reaching distance of conductors, electrical equipment, or metal surface (crossarms, crossarm braces, or transformer cases), which are not effectively grounded and which may be or may become energized; 12) Pulling in wires or handling other conducting materials near circuits, apparatus, or equipment that is or may become energized.
9. Mr. Popham failed to comply with NESC Section 42, Subparagraph 420H, and Owen Electric's Safety Manual Section 6, paragraphs 602 and 604.
10. Owen Electric has taken disciplinary action against Mr. Popham as a result of the incident, suspending Mr. Popham for two days without pay and giving him a written reprimand. Mr. Popham was also required to explain to his fellow employees at an August 1996 safety meeting how the accident occurred and what he should have done to have prevented it.
11. Owen Electric has executed a safety program and adopted the "Safety Manual for an Electric Utility" as produced by the American Public Power Association as its safety manual. As part of the safety program, all outside employees, including Mr. Popham, are required to attend monthly safety programs

at which they are fully instructed in safe methods of performing their work.

12. As a result of the failure of its employee to comply with the NESC, Owen Electric violated Commission Regulation 807 KAR 5:041, Section 3.
13. The failure of its employee to follow its safety rules during this incident does not represent a failure by Owen Electric to "adopt and execute" a safety program. The record thus fails to show in this instance that as a result of its employee's failure to follow its safety rules, Owen Electric violated Commission Regulation 807 KAR 5:006, Section 24.

WHEREAS, Owen Electric and Commission Staff desire to settle the issues raised by this proceeding.

NOW, THEREFORE, Owen Electric and Commission Staff agree that:

1. Within 10 days after the entry of an Order approving this Settlement Agreement, Owen Electric shall pay to the Commonwealth of Kentucky a civil penalty of Two Hundred and Fifty Dollars (\$250.00). This payment shall be in the form of a check made payable to "Treasurer, Commonwealth of Kentucky" and shall be mailed or delivered to: Office of General Counsel, Public Service Commission of Kentucky, 730 Schenkel Lane, Post Office Box 615, Frankfort, Kentucky 40602.
2. This Settlement Agreement resolves all issues arising out of the March 25, 1996, incident.
3. This agreement is subject to the acceptance of and approval by the Public Service Commission.
4. If the Public Service Commission fails to accept and approve this Settlement Agreement in its entirety, this proceeding shall go forward and neither the

terms of this Settlement Agreement nor any matters raised during settlement negotiations shall be binding on either signatory.

5. If the Public Service Commission accepts and adopts this Settlement Agreement in its entirety and enters an order in this proceeding to that effect, Owen Electric shall not apply for rehearing in this proceeding nor bring an action for review of that order.

IN WITNESS WHEREOF, Owen Electric and Commission Staff have executed this Settlement Agreement the day and year first above written by and through their duly authorized attorneys.

STAFF OF PUBLIC SERVICE COMMISSION
OF KENTUCKY

BY: John H. Jeffrey
TITLE: Staff Attorney

OWEN ELECTRIC COOPERATIVE, INC.

BY: James R. Downing
TITLE: Pres/CEO