

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CLARK ENERGY COOPERATIVE, INC.)	
_____)	CASE NO. 2001-201
)	
ALLEGED VIOLATION OF COMMISSION)	
REGULATION 807 KAR 5:041, SECTION 3)	

O R D E R

Clark Energy Cooperative, Inc. (Clark Energy) is a Kentucky corporation that owns and operates facilities used in the distribution of electricity to the public for compensation for lights, heat, power and other uses.

Clark Energy is subject to the safety jurisdiction of the Commission, pursuant to KRS 278.010 and 278.210.

On October 22, 2001, the Commission entered an Order establishing this case and directing Clark Energy to show cause why it should not be subject to the penalties of KRS 278.990 relating to a Utility Accident Investigation Report attached to that Order.

On November 9, 2001, Clark Energy responded to each allegation, and requested an informal conference with Commission Staff.

On December 6, 2001, during the informal conference, Clark Energy and Commission Staff entered into negotiations to resolve all outstanding issues in this proceeding. A Settlement Agreement has been executed and is appended hereto for Commission approval.

In reviewing this Settlement Agreement, the Commission has considered, *inter alia*, the circumstances surrounding the alleged violations and the efforts of Clark Energy to comply with the Commission's safety regulations.

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. No formal hearing shall be held in this case.
2. The Settlement Agreement, appended hereto, is incorporated into this Order as if fully set forth herein.
3. The terms and conditions set forth in the Settlement Agreement are adopted and approved.
4. Upon payment of the penalty as set out in paragraph 2 of the Settlement Agreement, this case shall be removed from the Commission's docket.

Done at Frankfort, Kentucky, this 23rd day of January, 2002.

By the Commission

ATTEST:


Executive Director

APPENDIX TO AN ORDER OF THE
KENTUCKY PUBLIC SERVICE COMMISSION
IN CASE NO. 2001-201
DATED January 23, 2002

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CLARK ENERGY COOPERATIVE, INC.)
_____)
ALLEGED VIOLATION OF COMMISSION)
REGULATION 807 KAR 5:041, SECTION 3)

CASE NO. 2001-201

SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered this 14th day of January, 2002, by and between the STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY ("Commission Staff") and CLARK ENERGY COOPERATIVE, INC. (Clark Energy).

WITNESSETH:

WHEREAS, Clark Energy is a Kentucky corporation that engages in the distribution of electricity to the public for compensation for lights, heat, power, and other uses and is a utility subject to Commission jurisdiction; and

WHEREAS, on October 22, 2001, the Public Service Commission entered an Order establishing this case and directing Clark Energy to show cause why it should not be subject to the penalties of KRS 278.990 relating to a Utility Accident Investigation Report dated June 20, 2001; and

WHEREAS, on November 9, 2001, Clark Energy, by counsel, filed a response to the Commission's Order in which Clark Energy denied any violation of the NESC or Commission regulations on its behalf or its supervisors; and

WHEREAS, the courts of this Commonwealth addressed the issue and ascertained the scope and nature of the Commission's authority in Public Service Commission v. Jackson County Rural Electric Cooperative Corporation, Ky.App., 50 S.W.3d 764 (2000); and

WHEREAS, Clark Energy and Commission Staff held an informal conference on December 6, 2001 in which all issues were discussed; and

WHEREAS, Clark Energy and Commission Staff desire to settle the issues raised by this proceeding and have entered into this Settlement Agreement through compromise to settle this proceeding;

NOW, THEREFORE, Clark Energy and Commission Staff agree that:

1. Clark Energy recognizes and acknowledges that National Electrical Safety Code, Section 42, 420H, and Section 42, 420K, require tools, protective equipment, and safety straps to be used by employees in connection with their work, and Clark Energy further recognizes and acknowledges that National Electrical Safety Code, Section 42, 421A, requires that the first level supervisor or person in charge make employees aware of energized equipment.

2. Within 10 days after the entry of an Order approving this Settlement Agreement, Clark Energy shall pay to the Commonwealth of Kentucky the sum of Three Thousand Five Hundred Dollars (\$3,500.00). This payment shall be in the form of a cashier's check made payable to "Treasurer, Commonwealth of Kentucky" and shall be mailed or delivered to the Office of General Counsel, Public Service Commission of Kentucky, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

3. Nothing contained herein shall be construed as an admission of a willful violation of any federal or state statute or any provision of an administrative regulation; nor shall the Public Service Commission's acceptance of this agreement be construed as a finding of a willful violation of any statute or administrative regulation. This Settlement Agreement shall not be used for any purpose in any subsequent legal or administrative proceeding (other than a proceeding by the Commission to enforce the terms of this Settlement Agreement), and Clark Energy shall not be precluded or estopped from raising any issue, claim or defense therein by reason of the execution of this Settlement Agreement.

4. This Agreement is subject to the acceptance of and approval by the Public Service Commission. If this settlement is accepted by an Order of the Public Service Commission, the parties agree not to request rehearing or to file an appeal of that Order in the Franklin Circuit Court.

5. Commission Staff shall recommend to the Public Service Commission that this Settlement Agreement be accepted and approved.

6. 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 or be construed against either Clark Energy or Commission Staff.

7. Upon approval of this Settlement Agreement by the Public Service Commission, Clark Energy waives a formal hearing for all purposes and stipulates that an Order may be entered in this case incorporating this settlement.

IN WITNESS WHEREOF, Clark Energy 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: James R. Goff
James R. Goff, Staff Attorney

CLARK ENERGY COOPERATIVE, INC

BY: Paul H. Howell
TITLE: President/CEO