

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC COMPANY)	
_____)	CASE NO.
)	2002-00427
ALLEGED FAILURE TO COMPLY WITH)	
ADMINISTRATIVE REGULATIONS)	

O R D E R

Louisville Gas and Electric Company (LG&E) is a Kentucky corporation engaged 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 pursuant to KRS 278.010.

KRS 278.280(2) directs the Commission to prescribe rules and regulations to govern the performance of utility service. Pursuant to this provision, the Commission promulgated 807 KAR 5:006, Section 24, and 807 KAR 5:041, Section 3.

807 KAR 5:006, Section 24, directs each utility to adopt and execute safety programs appropriate for the size and scope of its operations. Specifically, each utility must establish a safety manual to be followed by its workers. Pursuant to this directive, LG&E s Health and Safety Manual established written guidelines governing the use of hold cards, red tags, and the treatment of electrical lines and equipment.

807 KAR 5:041, Section 3, requires utilities to maintain their facilities in accordance with the National Electrical Safety Code, 1990 Edition (NESC). The

NESC, Section 41, Rule 411 requires utilities to instruct their workers¹ as to the character of electrical lines and equipment before any work is undertaken thereon. This rule further requires utility employers to direct workers to take additional safety precautions when working conditions create unusual hazards. The NESC, Section 42, Rule 420 requires workers to safeguard themselves and others and to use protective devices while working. The rule further requires utility workers to consider that electric supply equipment and lines are energized unless they are positively known to be de-energized. The NESC, Section 42, Rule 421 requires supervisors to adopt precautions to prevent accidents and ensure that these precautions are observed by those under their direction.

On November 15, 2002, Commission Staff submitted to the Commission a Utility Accident Report, attached hereto as Appendix A. The report alleges that on September 18, 2002, Walt Walker, an LG&E contract worker, was servicing an underground lateral cable when he received an electric shock and was fatally injured.

The Utility Accident Report alleges four probable violations of Commission regulations. The first allegation cites a probable violation of 807 KAR 5:041, Section 3, for LG&E's failure to properly instruct Mr. Walker as to the character of the electric lines and for its failure to instruct him to take additional safety precautions in light of the existing working conditions. The report alleges a second violation of this regulation due

¹ Employees of the utility's independent contractor are viewed as agents of the utility within the context of the Commission's safety regulations. KRS 278.990(1) and 807 KAR 5:041(3) authorize the Commission to assess civil penalties against an electric utility for willful violations of the NESC by employees of the utility's independent contractor while maintaining utility plants and facilities. Public Service Commission v. Jackson County Rural Electric Cooperative, Inc., 50 S.W.3d 764 (2000).

to the failure of LG&E contract workers to properly safeguard themselves and others, and their failure to consider that electric supply equipment and lines are energized unless the equipment and lines are positively known to be de-energized. Mr. Walker's failure to wear personal protective equipment in the form of rubber gloves or sleeves serves as an additional basis for this allegation. The report alleges a third violation of 807 KAR 5:041, Section 3, for the foremen's failure to adopt safety precautions and for their failure to ensure that safety rules and procedures are observed by the workers under their control. The report alleges a fourth violation of 807 KAR 5:041, Section 3, for the failure of LG&E contract workers to execute the practices and procedures outlined in their Health and Safety Manual.

For the foregoing reasons, the Commission, on its own motion, HEREBY ORDERS that:

1. LG&E shall appear on March 18, 2003, at 9:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky to present evidence concerning the alleged violations of 807 KAR 5:041, Section 3, and 807 KAR 5:006, Section 24, and to show cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for these alleged violations.

2. Within 20 days of the date of this Order, LG&E shall submit to the Commission a written response to the allegations described in the Utility Accident Investigation Report. In appearances before the Commission, corporations shall be represented by an attorney authorized to practice in the Commonwealth of Kentucky.

3. Any motion for continuance of a hearing set by the Commission shall be made only for good cause and sufficiently in advance of the hearing date to allow time for the Commission to rule upon the motion.

4. Any motion requesting an informal conference with Commission Staff to consider matters which would aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

5. The Utility Accident Investigation Report dated November 15, 2002, appended hereto, is made part of the record of this proceeding.

Done at Frankfort, Kentucky, this 10th day of February, 2003.

By the Commission

ATTEST:


Executive Director