

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BIG SANDY RURAL ELECTRIC)	
COOPERATIVE CORPORATION)	
_____)	CASE NO.
)	2004-00085
ALLEGED FAILURE TO COMPLY WITH)	
ADMINISTRATIVE REGULATIONS 807 KAR)	
5:006, SECTION 24 AND 807 KAR 5:041,)	
SECTION 3)	

O R D E R

Big Sandy Rural Electric Cooperative Corporation (“Big Sandy RECC”) is a Kentucky corporation that engages in the distribution of electricity to the public, for compensation, for lights, heat, power, and other uses. Big Sandy RECC was formed under KRS 279.010 to 279.220 and is a utility subject to Commission jurisdiction pursuant to KRS 278.010 and KRS 278.210.

KRS 278.280(2) directs the Commission to prescribe rules and regulations for the performance of services by utilities. Pursuant to this statutory directive, the Commission promulgated Administrative Regulation 807 KAR 5:041, Section 3, which requires electric utilities to maintain their plants and facilities in accordance with the standards of the most recent edition of the National Electrical Safety Code. It further promulgated Administrative Regulation 807 KAR 5:006, Section 24, requiring each utility to adopt and execute a safety program. Big Sandy RECC has adopted the 1999 Edition of the American Public Power Association Safety Manual (“Big Sandy Safety Manual”).

Commission Staff has submitted to the Commission an Electric Utility Personal Injury Accident Report (“Accident Report”) dated June 18, 2003, which alleges:

1. On May 6, 2003, Paul Holbrook (“Holbrook”), an employee of G&S Contracting, Inc. (“G&S”) was in the process of setting a 45-foot pole into the ground when the pole came into contact with the energized, primary overhead line.

2. At the time of the incident, Holbrook was wearing rubber gloves but was not wearing rubber boots.

3. Holbrook suffered an entry wound to his right hip, an exit wound on his left foot and a broken left arm.

4. At the time of the incident, Big Sandy RECC owned the facilities in question.

5. At the time of the incident, Ron Sexton (“Sexton”) was employed by G&S as a foreman and was acting within the scope of his employment.

6. At the time of the incident, Holbrook was employed by G&S as a truck operator and was acting within the scope of his employment.

7. At the time of the incident, G&S was acting within the scope of a distribution line and extension construction contract with Big Sandy RECC.

8. NESC Rule 420C requires that employees shall consider all the effects of their actions with respect to their safety and the safety of others when working on or in the vicinity of energized lines.

9. NESC 420H requires that employees shall use the personal protective equipment, devices, and special tools provided to them for their work.

10. NESC Rule 421A requires that a first-level supervisor or person in charge shall see that safety rules and operating procedures are observed by all employees under his direction. The rule further requires the individual to adopt such precautions as are within his authority to prevent accidents.

11. Big Sandy's Safety Manual, General Rules Section provides that supervisors are responsible for the safety of employees under their supervision.

12. Big Sandy Safety Manual, Section 101 requires employees to comply with the safety rules; requires the employee to bring to the attention of the supervisor the fact that proper protection has not been provided; and requires the employee to follow all utility policies and procedures.

13. Big Sandy Safety Manual, Section 618 requires that where a safe clearance cannot be maintained, pole guards shall be used to prevent accidental contact with energized lines.

14. Holbrook violated NESC Rules 420C and 420H and Big Sandy safety Manual, Section 101, by failing to wear rubber boots as required by the activity being performed.

15. Sexton and Holbrook violated Big Sandy Safety Manual, Section 618, when they failed to ensure that a pole guard was in use due to inadequate clearances.

16. Sexton violated NESC Rule 421A when he failed to require that all safety rules and operating procedures were observed by those under his direction and, specifically, failed to ascertain that Holbrook was using the proper protective equipment.

Based on its review of the Accident Report, and being otherwise sufficiently advised, the Commission finds that *prima facie* evidence exists that Big Sandy RECC

failed to comply with Administrative Regulation 807 KAR 5:041, Section 3, and 807 KAR 5:006, Section 24.

The Commission, on its own motion, HEREBY ORDERS that:

1. Big Sandy RECC shall appear before the Commission on June 2, 2004 at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violations of Commission Regulations 807 KAR 5:006, Section 24, and 807 KAR 5:041, Section 3, and of showing cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for these alleged violations.

2. Big Sandy RECC shall submit to the Commission, within 20 days of the date of this Order, a written response to the allegations contained in the Accident Report.

3. The Accident Report, a copy of which is appended hereto, is hereby made a part of the record in this proceeding.

4. Any motion requesting an informal conference with Commission Staff to consider any matter 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.

Done at Frankfort, Kentucky, this 15th day of April, 2004.

By the Commission

ATTEST:


Executive Director

Case No. 2004-00085

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2004-00085 DATED APRIL 15, 2004

(See document named 200400085_04152004apx.pdf for Appendix.)