

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC COMPANY)	
_____)	CASE NO. 2005-00224
)	
ALLEGED FAILURE TO COMPLY WITH)	
KRS 278.042 AND 807 KAR 5:006, SECTION 24)	

O R D E R

Louisville Gas and Electric Company (“LG&E”), a Kentucky corporation which engages in the distribution of electricity to the public for compensation for lights, heat, power, and other uses, is a utility subject to Commission jurisdiction. KRS 278.010(3)(a).

KRS 278.042 directs the Commission to ensure that each electric utility constructs and maintains its plant and facilities in accordance with accepted engineering practices as set forth in Commission regulations and the standards of the National Electrical Safety Code (“NESC”).

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 807 KAR 5:006, Section 24, which requires electric utilities to adopt and execute a safety program.

Commission Staff has submitted to the Commission an Incident Investigation Report dated May 12, 2005, appended hereto, in which Commission Staff alleges:

1. On April 13, 2005, James M. Murphy was injured in a fall from a 138 KV breaker while working at the Cane Run Generating Station in Louisville, Kentucky. Mr. Murphy subsequently died of his injuries.

2. At the time of the incident, Mr. Murphy was using a wrench at the top of one of the bushings on the breaker when the wrench slipped causing him to lose his balance and fall 10 feet and 10 inches to the floor.

3. Mr. Murphy was wearing a body harness, but it was not belted to a supporting structure.

4. Mr. Murphy was an employee of Ops Plus Inc. and was acting within the scope of his employment.

5. Ops Plus Inc. was acting within the scope of a contract with LG&E to maintain certain utility plant at the Cane Run facility.

6. NESC Section 42, Rule 420-H, requires employees to use personal protective equipment and the devices and special tools provided for their work.

7. NESC Section 42, Rule 420-K, requires that a climber, at elevated locations above 10 feet, be attached to equipment or structures by a fall protection system.

8. Mr. Murphy failed to comply with NESC Section 42, Rule 420-H.

9. Mr. Murphy failed to comply with NESC Section 42, Rule 420-K.

10. LG&E has adopted a Health and Safety Manual ("LG&E Manual") that describes its safety program.

11. The LG&E Manual, Section A.21, provides that when an employee is exposed to a fall in excess of 4 feet and other devices are not available, the employee shall be protected by the use of fall-arrest equipment such as a body harness, lanyards, lifelines,

and rope grabs and that the employee shall rig the equipment in such a manner that he cannot fall more than 6 feet nor more than 2 feet, depending upon which device is used.

12. Mr. Murphy failed to comply with LG&E Manual, Section A.21.

Based on its review of the Incident Investigation Report and being otherwise sufficiently advised, the Commission finds that prima facie evidence exists that LG&E has failed to comply with KRS 278.042 and 807 KAR 5:006, Section 24.

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

1. LG&E shall appear before the Commission on August 9, 2005, 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 NESC Section 42, Rule 220-H; NESC Section 42, Rule 420-K; and 807 KAR 5:006, Section 24, and showing cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for these alleged violations.

2. Pursuant to KRS 278.360, the official record of the proceeding shall be by video only, unless otherwise requested by a party to this proceeding 10 days prior to the hearing.

3. LG&E shall submit to the Commission within 20 days of the date of this Order a written response to the allegations contained in the Incident Investigation Report.

4. The Incident Investigation Report dated May 12, 2005, a copy of which is appended hereto, is made part of the record of this proceeding.

5. Any motion requesting an informal conference with Commission Staff to consider matters that 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 8th day of July, 2005.

By the Commission

ATTEST:


Executive Director

Case No. 2005-00224

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2005-00224 DATED July 8, 2005

(Appendix is available upon request)