

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SALT RIVER ELECTRIC COOPERATIVE )  
CORPORATION )

\_\_\_\_\_ )

ALLEGED FAILURE TO COMPLY WITH )  
KRS 278.042 AND ADMINISTRATIVE )  
REGULATION 807 KAR 5:006, SECTION 24 )

CASE NO. 2005-00285

O R D E R

By Order dated September 2, 2005, the Commission initiated this investigation to determine whether Salt River Electric Cooperative Corporation ("Salt River") should be subjected to the penalties prescribed in KRS 278.990(1) for an alleged violation of KRS 278.042 and 807 KAR 5:006, Section 24. The alleged violation is set forth in a Utility Accident Investigation Report ("Report") which was prepared by Commission Staff and attached as an appendix to the September 2, 2005 Order.

Salt River was directed to file a response to the allegations set forth in the Report and to show cause why penalties should not be imposed. Salt River timely filed its response and denied that it willfully committed any violation. It requested that the Commission dismiss the action or, in the alternative, that it suspend the scheduled hearing and schedule an informal conference with Commission Staff. The hearing was cancelled generally and an informal conference was conducted, during which Commission Staff and representatives of Salt River entered into negotiations to resolve all outstanding issues in this proceeding. Agreement was reached on settlement, and was subsequently reduced to

writing and executed. A copy of the Settlement Agreement is appended hereto as Appendix A.

After reviewing the Settlement Agreement, the Commission finds that the agreement is in accordance with 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 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. Within 10 days of the date of this Order, Salt River shall pay to the Commonwealth of Kentucky the sum of \$2,500. This payment shall be in the form of a cashier's check made payable to the 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.
4. Upon receipt of the payment set forth in Ordering Paragraph 3, this case shall be closed and removed from the Commission's docket without further Order.

Done at Frankfort, Kentucky, this 9th day of January, 2006.

By the Commission

ATTEST:

  
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2005-00285 DATED January 9, 2006.

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SALT RIVER ELECTRIC COOPERATIVE CORPORATION	)	
_____	)	CASE NO. 2005-00285
ALLEGED FAILURE TO COMPLY WITH KRS 278.042 AND ADMINISTRATIVE REGULATION 807 KAR 5:006, SECTION 24	)	

**SETTLEMENT AGREEMENT**

This Settlement Agreement is entered into this 10th day of November, 2005, by and between Salt River Electric Cooperative Corporation ("Salt River") and the Staff of the Kentucky Public Service Commission ("Commission Staff").

**WITNESSETH:**

**WHEREAS**, Salt River is a utility subject to jurisdiction of the Kentucky Public Service Commission ("Commission") pursuant to KRS Chapter 278; and

**WHEREAS**, on March 24, 2005, an incident occurred whereby Billy Hamilton was injured while reworking a 50-foot pole near Bardstown, Nelson County, Kentucky. Mr. Hamilton suffered burns on his right forearm and on the two middle fingers of his left hand. At the time of the incident, Mr. Hamilton and Pat Burman were installing a 10 KVA transformer on the pole. At the time of the incident, Mr. Hamilton was not wearing the required rubber gloves and rubber sleeves; and

**WHEREAS**, at the time of the incident, Mr. Hamilton was an employee of Hamilton Power Line Construction Company and was acting within the scope of his

employment and within the scope of a contract between Hamilton Power Line Construction Company and Salt River; and

**WHEREAS**, the Commission Staff investigated the incident and submitted its Incident Investigation - Staff Report ("Report") on April 8, 2005; and

**WHEREAS**, on September 2, 2005, the Commission entered an order initiating Case No. 2005-00285, styled *Salt River: Alleged Failure to Comply with KRS 278.042 and 807 KAR 5:006, Section 24*, and ordered Salt River to show cause why it should not be subject to the penalties of KRS 278.990(1) for the alleged probable violations of the National Electrical Safety Code ("NESC") Section 42, Rule 420-H and the provision of the Kentucky Administrative Regulation 807 KAR 5:006, Section 24, as listed in the Report; and

**WHEREAS**, on September 20, 2005, Salt River, by counsel, filed its response to the Commission's Order of September 2, 2005 and the Report, denying that Salt River had willfully violated the NESC or Kentucky Administrative Regulation as cited in the Report; and

**WHEREAS**, on September 27, 2005, Salt River and Commission Staff held an informal conference at the offices of the Commission in which all issues were discussed; and

**WHEREAS**, Salt River and Commission Staff negotiated a settlement through compromise resolving all issues surrounding the March 24, 2005 incident; and

**WHEREAS**, as part of its negotiations, Salt River agreed to submit an audit procedure and form to the Commission Staff for comment; and

**WHEREAS**, Salt River has filed its audit procedure and form on October 27, 2005 which Commission Staff has accepted;

**NOW, THEREFORE**, for and in consideration of the premises and conditions set forth herein, the signatories hereby agree as follows:

1. Within ten (10) days after the entry of an Order approving this Settlement Agreement, Salt River shall pay to the Commonwealth of Kentucky the sum of Two Thousand Five Hundred Dollars (\$2,500) in full satisfaction of any applicable civil fines associated with the outcome of this proceeding. This payment shall be in the form of a cashier's check made payable to the "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.

2. Salt River acknowledges and agrees that, while it conducts audits of the work done by its independent contractors, there was no formal written report of such audits. Salt River has now implemented audit procedures for formal monthly site inspections of all overhead line contractors working on Salt River's facilities. Salt River will review these audit forms periodically and determine if any changes would be beneficial.

3. This Settlement Agreement is subject to the acceptance of and approval by the Commission. Following the execution of this Settlement Agreement, Commission Staff will recommend to the Commission that this Settlement Agreement be accepted and approved. If the Commission issues a final Order in which it accepts and approves this Settlement Agreement in its entirety, Salt River hereby waives its right under KRS 278.400 to file an application for rehearing and its rights under

KRS 278.410 to file a complaint in the Franklin Circuit Court regarding such Order of the Commission.

4. If the Commission does not accept and approve this Settlement Agreement in its entirety, then: (a) this Settlement Agreement shall be null, void, and withdrawn by the signatories hereto from further consideration by the Commission and none of the signatories shall be bound by any of the provisions herein; and (b) this proceeding shall go forward and neither the terms of this Settlement Agreement nor any matters raised during the settlement negotiations shall be binding on any of the signatories to this Settlement Agreement or be construed against any of the signatories.

5. This Settlement Agreement reflects a compromise resolution of a contested matter. The scope of this proceeding is limited by the Commission's July 8, 2005 Order to whether Salt River should be assessed penalties under KRS 278.990 for willful violations of Commission regulations, including NFSC Rules. Neither the payment of the civil penalty, nor any other agreement contained in this Agreement, shall be construed as an admission by Salt River of a willful violation of any Commission regulation or NESC Rule, nor shall it be construed as an admission by Salt River of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the Report, nor shall the Commission's acceptance of this Agreement be construed as a finding of a willful violation of any Commission regulation or NESC Rule.

6. 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 Salt River shall

not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Settlement Agreement.

7. Salt River and Commission Staff agree that the above Settlement Agreement is reasonable, is in the public interest, and should be adopted in its entirety by the Commission. If so adopted by the Commission, Salt River agrees to waive its right to a formal hearing.

**IN WITNESS WHEREOF**, the parties hereto have hereunto affixed their signatures.

**Salt River Electric Cooperative Corporation**

By:   
Counsel for Salt River  
Electric Cooperative Corporation

**Staff of the Kentucky Public Service  
Commission**

By:   
James R. Goff, Counsel for the Staff,  
Kentucky Public Service Commission