

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC COMPANY)	
_____)	CASE NO. 2006-00084
)	
ALLEGED FAILURE TO COMPLY WITH)	
KRS 278.042)	

O R D E R

By Order dated March 3, 2006, the Commission directed Louisville Gas and Electric Company ("LG&E") to appear at a hearing on April 7, 2006 to show cause why it should not be subject to the penalties provided under KRS 278.990 for two probable violations of KRS 278.042, which requires an electric utility to construct and maintain its plant and facilities in accordance with the most recent edition of the National Electrical Safety Code, which is the 2002 Edition ("NESC"). More specifically, the probable violations are of: (1) NESC Section 42, Rule 420.C.4, which requires employees who work on or in the vicinity of energized lines to consider all of the effects of their actions, taking into account their own safety as well as the safety of other employees, of the affected electric system, the property of others, and the public in general; and (2) NESC Section 42, Rule 422.A.1, which requires employees who are setting, moving, or removing poles in the vicinity of energized lines to take suitable precautions to avoid direct contact of the pole with the energized conductors and prohibits employees performing such work from contacting the pole with uninsulated parts of their bodies.

The alleged violations arose from a June 28, 2005 accident in which employees of an LG&E contractor, United Electric Company, were performing maintenance work on LG&E's electric plant and facilities. The contractor's employees were attempting to replace the aluminum base of an aluminum street light pole at the intersection of Eighth and Market Streets, Louisville, Kentucky, when a gust of wind caused the arm of the pole and street light head to rotate approximately 90 degrees and make contact with the C-phase of a 4 kV circuit. LG&E filed an answer to the show cause Order and requested an informal conference, which was held at the Commission's offices on April 7, 2006. Those discussions led to the filing of a Stipulation of Facts and Settlement Agreement ("Stipulation") on June 1, 2006. The Stipulation, attached hereto as Appendix A and incorporated herein by reference, sets forth LG&E's agreement with the statement of facts contained in the Staff's Incident Investigation Report, which was appended to the Commission's March 3, 2006 Order. The Stipulation also discusses the remedial action to be taken by LG&E, and provides that LG&E will pay a civil penalty in the amount of \$2,500 in full satisfaction of the two probable violations.

Determining whether the terms of the Stipulation are in the public interest and are reasonable, the Commission has taken into consideration the comprehensive nature of the Stipulation and LG&E's willingness to cooperate to achieve a resolution of the matters at issue. Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that the Stipulation is in accordance with the law and does not violate any regulatory principle. The Stipulation is a product of arm's-length negotiations among capable, knowledgeable parties, is in the public interest, and results in a reasonable resolution of all issues in this case.

IT IS THEREFORE ORDERED that:

1. The Stipulation is adopted and approved in its entirety as a complete resolution of all issues in this case.

2. LG&E shall pay \$2,500 as a civil penalty within 30 days of the date of this Order by cashier's check or money order payable to the Kentucky State Treasurer and mailed or delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

3. LG&E shall file within 30 days of the date of this Order copies of the written guidelines that have been developed for its employees and contractors regarding the potential hazards from working on street light poles near energized lines. LG&E shall also file copies of the written response from United Electric Company acknowledging the potential hazards and acknowledging that it has taken action to inform its employees of such hazards.

4. Upon payment of the \$2,500 civil penalty and the filing of the documentation referenced in the ordering paragraph above, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

Done at Frankfort, Kentucky, this 16th day of June, 2006.

By the Commission

ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2006-00084 DATED JUNE 16, 2006.

COMMONWEALTH OF KENTUCKY
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LOUISVILLE GAS AND ELECTRIC COMPANY)	
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STIPULATION OF FACTS AND
SETTLEMENT AGREEMENT

By Order dated March 3, 2006, the Commission initiated this proceeding to determine whether Louisville Gas and Electric Company ("LG&E") should be subject to the penalties prescribed in KRS 278.990 for two probable violations of KRS 278.042, which requires an electric utility to construct and maintain its plant and facilities in accordance with the most recent edition of the National Electrical Safety Code, which is the 2002 Edition ("NESC"). The two probable violations cited by the Commission's March 3, 2006 Order are as follows: (1) NESC Section 42, Rule 420.C.4, which requires employees who work on or in the vicinity of energized lines to consider all of the effects of their actions, taking into account their own safety as well as the safety of other employees, of the effect of the electric system, property of others, and the public in general; and (2) NESC Section 42, Rule 422.A.1, which requires employees who are setting, moving, or removing poles in the vicinity of energized lines to take suitable precautions to avoid direct contact of the pole with the energized conductors and prohibits employees performing such work from contacting the pole with uninsulated parts of their bodies.

The Commission's Order arose out of an incident which occurred on June 14, 2005 when an employee of United Electric Company, a contractor hired by LG&E to perform maintenance work on LG&E's electric plant and facilities, was attempting to replace the aluminum base of an aluminum street light pole at the intersection of Eighth and Market Streets in Louisville, Kentucky. As the pole was being lifted with a derrick truck, a gust of wind caused the arm of the pole and the street light head to rotate and make contact with a 4 kV line. The employee of the contractor was in contact with the aluminum base and the street light pole and he received a shock with burns to his left arm and left knee.

On March 22, 2006, LG&E filed a response to the Commission's March 3, 2006 Order. LG&E's response denied that there was any violation of the NESC and requested an informal conference to discuss the issues raised. By Order dated March 31, 2006, the Commission scheduled an informal conference to be held on April 7, 2006 and suspended the hearing that had been previously scheduled for that date.

As a result of discussions held during the informal conference, LG&E and the Commission Staff submit the following Stipulation of Facts and Settlement Agreement ("Stipulation") for the Commission's consideration in rendering its decision in this proceeding:

1. LG&E agrees that the Staff's Incident Investigation Report ("Report"), Appendix A to the Commission's March 3, 2006 Order in this case, accurately describes and sets forth the material facts and circumstances surrounding the incident giving rise to the Order.

2. LG&E agrees to develop for all employees, and to provide to all contractors, written guidelines regarding the potential hazards of street light poles near energized lines twisting in the wind and laying out a non-exclusive set of options for controlling the hazard, including covering the conductor, removing the head of the structure, and using qualified personnel in a bucket truck to restrain the top of the structure.

3. LG&E will obtain a written response from its contractor, United Electric Company, acknowledging that it recognizes the twisting issue as a potential hazard and stating that it has taken action to inform its employees of such hazard.

4. LG&E agrees to pay a civil penalty in the amount of \$2,500 in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's March 3, 2006 Order to whether LG&E should be assessed penalties under KRS 278.990 for willful violations of the NESC rules as made applicable under KRS 278.042. Neither the payment of the civil penalty, nor any other agreement contained in this Stipulation, shall be construed as an admission by LG&E of a willful violation of any Commission regulation or NESC rule, nor shall it be construed as an admission by LG&E 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 Stipulation be construed as a finding of a willful violation of any Commission regulation or NESC rule.

5. In the event that the Commission does not accept this Stipulation in its entirety, LG&E and Staff reserve their rights to withdraw therefrom and require that a hearing be held on any and all issues involved herein, and that none of the provisions

contained herein shall be binding upon the parties hereto, used as an admission by LG&E of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the Report, or otherwise used as an admission by either party.

6. This Stipulation is for use in Commission Case No. 2006-00084, and neither party hereto shall be bound by any part of this Stipulation in any other proceeding, except that this Stipulation may be used in any proceeding by the Commission to enforce the terms of this Stipulation or to conduct a further investigation of LG&E's service, and LG&E shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Stipulation.

7. LG&E and Staff agree that the foregoing Stipulation is reasonable, is in the public interest, and should be adopted in its entirety by the Commission. If so adopted by the Commission, LG&E agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

Dated this 30th of May, 2006.

LOUISVILLE GAS AND ELECTRIC COMPANY

By: James Dumas
JAMES DUMAS
Title: SENIOR CORPORATE ATTORNEY

STAFF OF THE KENTUCKY PUBLIC SERVICE COMMISSION

By: Richard G. Raff
Richard G. Raff, Staff Attorney