

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC COMPANY	)	
<hr/>	)	CASE NO. 2006-00352
	)	
ALLEGED FAILURE TO COMPLY WITH	)	
KRS 278.042 AND COMMISSION	)	
REGULATION 807 KAR 5:006, SECTION 24	)	

O R D E R

By Order dated September 26, 2006, the Commission directed Louisville Gas and Electric Company ("LG&E") to appear at a hearing on November 15, 2006 to show cause why it should not be subject to the penalties provided under KRS 278.990 for one probable violation 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"), and one probable violation of 807 KAR 5:006, Section 24, which requires a utility to adopt and execute a safety program, including the establishment of a safety manual with written guidelines for safe working practices and procedures to be followed by utility employees. More specifically, the probable violations are as follows:

1. NESC Section 42, Rule 420.C.4, which requires employees working in the vicinity of energized lines to consider all the effects of their actions and to take into account their own safety, the safety of other employees, the property of others, and the public in general; and
2. LG&E's Health and Safety Manual, Section E5.2, which requires employees working on cables or apparatus

carrying less than 600 volts to take extra precautions in using necessary rubber protective equipment, in observing adequate clearances, and by using approved insulated tools in order to prevent short circuits.

The alleged violations arose from an accident which occurred on July 14, 2006, when two LG&E employees were trying to locate a fault on an underground secondary conductor at 8 Brownsboro Hill Road, Louisville, Kentucky. After locating the suspected fault, one of the LG&E employees began pulling on what he thought was the neutral conductor, but it was actually a secondary supply conductor energized with 120 volts for testing purposes. His hand then contacted an uninsulated splice and he received a secondary shock and was hospitalized.

LG&E filed an answer to the show cause Order and requested an informal conference, which was held at the Commission's offices on November 1, 2006. Those discussions led to the filing of a Stipulation of Facts and Settlement Agreement ("Stipulation") on December 7, 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 September 29, 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 \$2,000 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 incorporate this incident into its employee safety training and cooperate to achieve a resolution of this proceeding. 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 \$2,000 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. Upon payment of the \$2,000 civil penalty, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

Done at Frankfort, Kentucky, this 22nd day of December, 2006.

By the Commission

ATTEST:

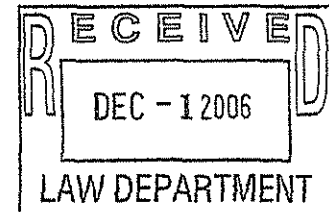


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2006-00352 DATED DECEMBER 22, 2006

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION



In the Matter of:

LOUISVILLE GAS AND ELECTRIC COMPANY )  
 )

CASE NO. 2006-00352

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

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated September 29, 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 one probable violation 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"), and one probable violation of 807 KAR 5:006, Section 24, which requires a utility to adopt and execute a safety program, including the establishment of a safety manual with written guidelines for safe working practices and procedures to be followed by utility employees.

The one probable violation of the NESC cited by the Commission's September 29, 2006 Order is NESC, Section 42, Rule 420.D, by the employees' failure to consider electric supply lines to be energized, unless they are positively known to be deenergized, and by failing to perform preliminary tests to determine existing conditions. The one probable violation of LG&E's Health and Safety Manual cited by the

Commission's September 29, 2006 Order is Section E5.2, by the failure of employees working on cables or apparatus carrying less than 600 volts to take extra precautions in using necessary rubber protective equipment, in observing adequate clearances, and by using approved insulated tools in order to prevent short circuits.

The Commission's Order arose out of an incident which occurred on July 14, 2006, when two LG&E employees were trying to locate a fault on an underground secondary conductor at 8 Brownsboro Hill Road, Louisville, Kentucky. After locating the suspected fault, one of the LG&E employees began pulling on what he thought was the neutral conductor, but it was actually a secondary supply conductor energized with 120 volts for testing purposes. His hand then contacted an uninsulated splice and he received a secondary shock and was hospitalized.

On October 19, 2006, LG&E filed a response to the Commission's September 29, 2006 Order. LG&E's response denies that there were any willful violations of either the NESC or its Health and Safety Manual, and claims that there is no provision under 807 KAR 5:006, Section 24 for the imposition of a penalty due to employee misconduct or negligence. LG&E's response also states that it cannot be subjected to multiple penalties for two probable violations which have substantially similar requirements and which arise from the same conduct. In response to LG&E's request for an informal conference, the Commission suspended the hearing that had been set for November 15, 2006, and scheduled an informal conference on November 1, 2006.

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 September 29, 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 use the facts of this incident as part of its employee training program. The LG&E employee involved in this incident who was not using proper protective equipment received a written reprimand.

3. LG&E agrees to pay a civil penalty in the amount of \$2,000 in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's September 29, 2006 Order to whether LG&E should be assessed penalties under KRS 278.990 for a willful violation of the NESC rules as made applicable under KRS 278.042 and a willful violation of its Health and Safety Manual as made applicable under 807 KAR 5:006, Section 24. 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 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.

4. 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

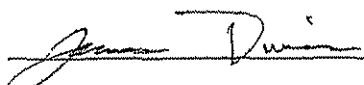
contained herein shall be binding upon the parties hereto, used as an admission by LG&E of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the Report, or otherwise used as an admission by either party.

5. This Stipulation is for use in Commission Case No. 2006-00352, 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.

6. 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 1st day of <sup>December</sup>~~November~~, 2006. JD

**LOUISVILLE GAS AND ELECTRIC COMPANY**

BY   
Title SENIOR CORPORATE ATTORNEY

**STAFF OF THE KENTUCKY PUBLIC SERVICE COMMISSION**

BY   
Richard G. Raff, Staff Attorney