

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

OWEN ELECTRIC COOPERATIVE, INC.)	
<hr style="width:60%; margin-left:0"/>)	CASE NO. 2006-00361
)	
ALLEGED FAILURE TO COMPLY WITH)	
KRS 278.042 AND WITH 807 KAR 5:006,)	
SECTION 24)	

O R D E R

By Order dated September 28, 2006, the Commission directed Owen Electric Cooperative, Inc. ("Owen Electric") to appear at a hearing on November 17, 2006 to show cause why it should not be subject to the penalties provided under KRS 278.990 for three 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"), and one violation of 807 KAR 5:006, Section 24, which requires a utility to adopt and execute a safety manual with written guidelines for safe working practices and procedures to be followed by utility employees. 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.

2. NESC Section 42, Rule 420.D, which requires employees to consider electric supply equipment and lines to be energized, unless they are positively known to be de-energized, and before starting work, employees are required to perform preliminary inspections or tests to determine existing conditions, and operating voltages of equipment and lines should be known before working on or in the vicinity of energized parts.

3. NESC Section 42, Rule 422.C.5, which requires employees working on or in the vicinity of equipment or lines exposed to voltages higher than those guarded against by the safety appliances provided to take steps to be assured that the equipment or lines on which the employees are working are free from dangerous leakage or induction or have been effectively grounded.

4. Owen Electric's Safety Manual, Section 601(b), which requires at least two employees to be present when the work to be performed includes any of the following: the installation, repair, or removal of de-energized lines if an employee is exposed to contact with other parts energized at more than 600 volts; the installation, repair, or removal of lines energized at more than 600 volts; or the installation, repair, or removal of equipment such as transformers, capacitors, and regulators, if an employee is exposed to contact with parts energized at more than 600 volts.

The alleged violations arose from a June 16, 2006 accident in which an Owen Electric employee was replacing a damaged lightning arrestor on a pole at 8344 Pleasant Valley Road in Florence, Kentucky. The employee opened the cutout and removed the primary jumper from the transformer, but he was unaware that there was a parallel connected transformer one pole away that was backfeeding energy through the secondary conductors. An electric arc occurred and the employee sustained burns to both hands and right arm.

Owen Electric filed an answer to the show cause Order and requested an informal conference, which was held at the Commission's offices on October 31, 2006. Those discussions led to the filing of a Stipulation of Facts and Settlement Agreement ("Stipulation") on November 8, 2006. The Stipulation, attached hereto as Appendix A and incorporated herein by reference, sets forth Owen Electric's agreement with the statement of facts contained in the Staff's Incident Investigation Report, which was appended to the Commission's September 28, 2006 Order. The Stipulation also discusses the remedial action to be taken by Owen Electric, and provides that Owen Electric will pay a civil penalty in the amount of \$4,500 in full satisfaction of the four 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 Owen Electric's willingness to revise its safety inspection procedures and 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. Owen Electric shall pay \$4,500 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. Owen Electric shall file, within 30 days of the date of this Order, a notice setting forth the name and job title of the Owen Electric employee who will be responsible for ensuring that safety audits are performed once a month on each Owen Electric crew and each contractor crew and that the written records of those audits are being maintained.
4. Upon payment of the \$4,500 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 12th 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. 2006-00361 DATED December 12, 2006.

COMMONWEALTH OF KENTUCKY
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ALLEGED FAILURE TO COMPLY)	
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STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order of September 28, 2006, the Commission initiated this proceeding to determine whether Owen Electric Cooperative, Inc. ("Owen Electric") should be subject to the penalties prescribed in KRS 278.990 for three 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"), 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 three probable violations of the NESC cited by the Commission's September 28, 2006 Order are as follows:

1. NESC, Section 42, Rule 420.C.4, by the employees' failure while 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;

2. 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 de-energized, by failing to perform preliminary tests to determine existing conditions, and by failing to know the operating voltages of lines before working on or in the vicinity of energized parts; and

3. NESC, Section 42, Rule 422.C.5, by the employees' failure, while working on or in the vicinity of equipment or lines exposed to voltages higher than those guarded against by the safety appliances provided, to take steps to be assured that the equipment or lines on which the employees are working are free from dangerous leakage or induction or have been effectively grounded;

The one probable violation of Owen Electric's Safety Manual is as follows:

(a) Sections 601(b), by the failure to have at least two employees present when the work to be performed includes any of the following: the installation, repair, or removal of de-energized lines if an employee is exposed to contact with other parts energized at more than 600 volts; the installation, repair, or removal of lines energized at more than 600 volts; or the installation, repair, or removal of equipment such as transformers, capacitors, and regulators, if an employee is exposed to contact with parts energized at more than 600 volts.

The Commission's Order arose out of an incident which occurred on June 16, 2006 when an Owen Electric employee was replacing a damaged lightning arrestor on a pole at 8344 Pleasant Valley Road in Florence, Kentucky. The employee opened the cutout and removed the primary jumper from the transformer, but he was unaware that there was a parallel connected transformer one pole away that was backfeeding energy through the secondary conductors. An electric arc occurred and the employee sustained burns to both hands and right arm. He was hospitalized for those injuries.

On October 13, 2006, Owen Electric filed a response to the Commission's September 28, 2006 Order. Owen Electric's response denied one of the NESC

violations and the Safety Manual violation cited by the Commission. Owen Electric admitted the other two NESC violations, which are NESC Section 42, Rules 420.D and 422.C.5. In response to Owen Electric's request for an informal conference, the Commission suspended the hearing that had been set for November 17, 2006 and scheduled an informal conference on October 31, 2006.

As a result of discussions held during the informal conference, Owen Electric 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. Owen Electric agrees that the Staff's Incident Investigation Report ("Report"), Appendix A to the Commission's September 28, 2006 Order in this case, accurately describes and sets forth the material facts and circumstances surrounding the incident giving rise to the Order.

2. Owen Electric agrees to conduct a safety program for its own employees and contractor employees on the precautions that need to be taken when working on transformers to determine whether a backfeed situation exists. Owen Electric also agrees to conduct safety audits at least monthly of its own work crews and those of its contractors. One Owen Electric employee will be assigned responsibility for ensuring that the safety audits are performed and that records of the audits are maintained.

3. Owen Electric agrees to pay a civil penalty in the amount of \$4,500 in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's September 28, 2006 Order to whether Owen Electric should be assessed penalties under KRS 278.990 for willful violations of the NESC rules, as made

applicable under KRS 278.042, and Owen Electric's 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 Owen Electric of a willful violation of any Commission regulation or NESC rule, nor shall it be construed as an admission by Owen Electric 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, Owen Electric 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 Owen Electric 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 hereto.

5. This Stipulation is for use in Commission Case No. 2006-00361, 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 Owen Electric's service, and Owen Electric shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Stipulation.

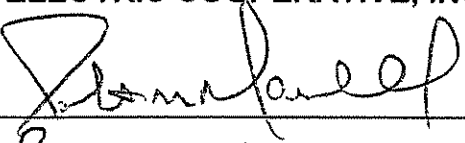
6. Owen Electric and Staff agree that the foregoing Stipulation is reasonable, is in the public interest, and should be adopted in its entirety by the Commission. If so adopted by the Commission, Owen Electric agrees to waive its right to a hearing and will not file any petition for rehearing or seek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

Dated this 13 day of November, 2006.

OWEN ELECTRIC COOPERATIVE, INC.

BY

Title


PRESIDENT / CEO

STAFF OF THE KENTUCKY PUBLIC SERVICE COMMISSION

BY


Richard G. Raff, Staff Attorney