

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|-------------------------------------|---|---------------------|
| JACKSON PURCHASE ENERGY CORPORATION |) | |
| _____ |) | CASE NO. 2007-00456 |
| |) | |
| ALLEGED FAILURE TO COMPLY |) | |
| WITH KRS 278.042 |) | |

O R D E R

By Order dated November 15, 2007, the Commission directed Jackson Purchase Energy Corporation ("Jackson Purchase") to appear at a hearing on March 4, 2008 to show cause why it should not be subject to the penalties provided under KRS 278.990 for six probable violations of KRS 278.420, which requires an electric utility to construct and maintain its plant and facilities in accordance with the most recent edition (2007) of the National Electrical Safety Code ("NESC"). The probable violations 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.H, by the employee's failure to use the personal protective equipment, protective devices, and the special tools provided for the work;
3. NESC Section 42, Rule 421.A.2, by the supervisor's failure to see that the safety rules and operating procedures are observed by the employee under the direction of the supervisor;
4. NESC Section 44, Rule 441.A.3.a, by the employee's failure to guard or insulate exposed ground lines, conductors, or other parts in the work area;

5. NESC Section 44, Rule 443.A.1, by the employee's failure to insulate himself from energized parts or failure to isolate or insulate himself from ground and grounded structures when working on energized lines and equipment; and
6. NESC Section 44, Rule 443.D, by the employee's failure to avoid working on equipment or lines in any position from which a shock or slip will tend to bring the body toward exposed parts at a potential different than the employee's body – work should generally be done from below, rather than from above.

The alleged violations arose from an accident which occurred on August 7, 2007.

At the time of the accident, Joshua Champion, an employee of Hendrix Electric, a contractor hired by Jackson Purchase to work on a reconductoring project, was tying in the new conductors on his pole. Due to the improper positioning of his body relative to the conductors and the failure to use any protective equipment, Mr. Champion sustained electrical burns to his chest, back, and neck as a result of making contact with a clamp energized at 7,200 volts while at the same time making contact with a grounded clevis.

Jackson Purchase filed an answer to the show cause Order and requested an informal conference, which was held at the Commission's offices on January 9, 2008. Discussions at the conference led to the filing of a Stipulation of Facts and Settlement Agreement ("Stipulation") on March 4, 2008. The Stipulation, attached hereto as Appendix A and incorporated herein by reference, sets forth Jackson Purchase's agreement with the statement of facts contained in the Staff's Incident Investigation Report which was appended to the Commission's November 15, 2007 Order. The Stipulation also discusses the remedial actions to be taken by Jackson Purchase, and provides that Jackson Purchase will pay a civil penalty in the amount of \$7,500 in full satisfaction of the six 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 Jackson Purchase's willingness to revise its safety inspection procedures 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:

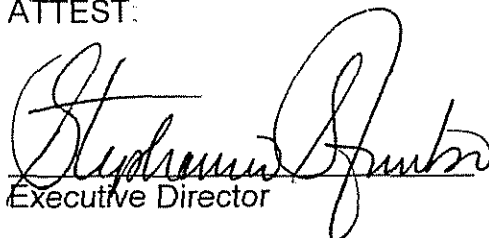
1. The Stipulation is adopted and approved in its entirety as a complete resolution of all issues in this case.
2. Within 30 days of the date of this Order, Jackson Purchase shall pay a civil penalty of \$7,500 by cashier's check or money order payable to the Kentucky State Treasurer and mailed or delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.
3. Within 30 days of the date of this Order, Jackson Purchase shall file a notice setting forth the name and job title of the Jackson Purchase employee who will be responsible for ensuring that safety audits are performed once a month on each Jackson Purchase crew and each contractor crew and that the written records of those audits are being maintained.

4. Upon payment of the \$7,500 civil penalty and the filing of the notice described 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 26th day of March, 2008.

By the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2007-00456 DATED MARCH 26, 2008

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JACKSON PURCHASE ENERGY CORPORATION)
_____) CASE NO. 2007-00456
)
ALLEGED FAILURE TO COMPLY)
WITH KRS 278.042)

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated November 15, 2007, the Commission initiated this proceeding to determine whether Jackson Purchase Energy Corporation ("Jackson Purchase") should be subject to the penalties prescribed in KRS 278.990 for six 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 ("NESC"). The six probable violations cited by the Commission's November 15, 2007 Order are as follows:

- NESC Section 42, Rule 420.C.4, which requires employees 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;
- NESC Section 42, Rule 420.H, which requires employees to use personal protective equipment, protective devices, and special tools provided for the work;
- NESC Section 42, Rule 421.A.2, which requires a supervisor to see that safety rules and operating procedures are observed by the employees under the direction of the supervisor;
- NESC Section 44, Rule 441.A.3.a, which requires exposed grounded lines, conductors, or parts in the work be guarded or insulated;

- NESC Section 44, Rule 443.A.1, which requires employees working on energized lines and equipment shall either insulate themselves from the energized parts or isolate or insulate themselves from ground and grounded structures, and potentials other than the one being worked on; and
- NESC Section 44, Rule 443.D, which requires employees to avoid working on equipment or lines in any position from which a shock or slip will tend to bring the body toward exposed parts at a potential different than the employees body and which requires that work be generally done from below, rather than from above.

The alleged violations arose from an August 7, 2007 accident in which Joshua Champion, an employee with Hendrix Electric, sustained injuries after coming into contact with a clamp energized at 7,200 volts while at the same time making contact with a grounded clevis. At the time of the accident, Hendrix Electric was under contract with Jackson Purchase to work on a three-phase reconductoring project.

On December 9, 2007, Jackson Purchase filed a response to the Commission's November 15, 2007 Order. Jackson Purchase's response denied the NESC violations cited by the Commission. Jackson Purchase subsequently requested an informal conference, which was held at the Commission's offices on January 9, 2008.

Discussions during the informal conference between Jackson Purchase and Commission Staff resulted in the following Stipulation of Facts and Settlement Agreement ("Stipulation") which is submitted for the Commission's consideration in rendering its decision:

1. Jackson Purchase agrees that the Staff's Incident Investigation Report ("Report"), Appendix A to the Commission's November 15, 2007 Order, accurately describes and sets forth the material facts and circumstances surrounding the incident.
2. Jackson Purchase agrees to perform safety audits once each full calendar month on each Jackson Purchase crew and each contractor crew, pursuant to the

NESC. Audits will only be conducted on Jackson Purchase crews and contractor crews performing work on Jackson Purchase distribution facilities. In the event Jackson Purchase encounters extended emergencies and outages or contract crews are relocated outside Jackson Purchase's service area, safety audits would not be required during that calendar month. Written summaries of each audit shall be maintained by Jackson Purchase, and one Jackson Purchase employee shall be designated as responsible for ensuring that the monthly audits are performed and that the written records are maintained and available for review upon request by the Commission.

3. Jackson Purchase agrees to pay a civil penalty in the amount of \$7,500 in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's November 15, 2007 Order to whether Jackson Purchase 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 Jackson Purchase of a willful violation of any Commission regulation or NESC rule, nor shall it be construed as an admission by Jackson Purchase 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, Jackson Purchase 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 thereto, used as an

admission by Jackson Purchase 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. 2007-00456, 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 Jackson Purchase's service, and Jackson Purchase shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Stipulation.

6. Jackson Purchase 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, Jackson Purchase agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

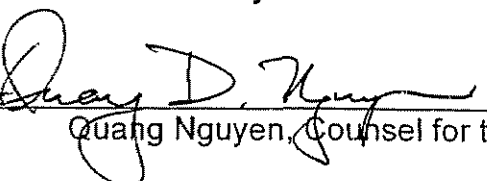
IN WITNESS WHEREOF, the parties hereto have hereunto affixed their signatures this 28th day of February, 2008.

Jackson Purchase Energy Corporation

By: 

Title President & CEO

Staff of the Kentucky Public Service Commission

By: 
Quang Nguyen, Counsel for the Staff