

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC COMPANY	)	
_____	)	
ALLEGED FAILURE TO COMPLY WITH	)	CASE NO.
KRS 278.042	)	2009-00014

O R D E R

By Order dated February 11, 2009, the Commission directed Louisville Gas and Electric Company ("LG&E") to show cause why it should not be subject to the penalties provided under KRS 278.990 for a 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 Electric Safety Code ("NESC"), which is the 2007 edition. Specifically, the probable violation is as follows:

NESC Section 42: General rules for employees:

420-C-4: Employees who work on or in the vicinity of energized lines shall consider all of the effects of their actions, taking into account their own safety as well as the safety of other employees on the job site, or on some other part of the affected electric system, the property of others, and the public in general.

The alleged violation arose from a July 3, 2008 accident in Jefferson County, wherein Anthony Acton, an employee of United Electric Company, sustained burn injuries to his neck and face while working on the site of an LG&E electric construction project.

LG&E submitted an answer to the Commission's show cause Order and a request for an informal conference. The informal conference was held at the Commission's offices on March 4, 2009. The discussions at the informal conference led to the filing of a Joint Stipulation of Facts and Settlement Agreement (collectively referred to as "Settlement Agreement"). The Settlement Agreement, attached hereto as Appendix A and incorporated herein by reference, sets forth LG&E's agreement with the statement of facts contained in the Commission Staff's Electric Utility Personal Injury Accident Report ("Report"), dated November 17, 2008. The Report was appended to the Commission's February 11, 2009 show cause Order. The Settlement Agreement also discusses the remedial actions to be taken by LG&E and a civil penalty in the amount of \$200.00 that LG&E will pay in full satisfaction of this proceeding.

In determining whether the terms of the Settlement Agreement are in the public interest and are reasonable, the Commission has taken into consideration the comprehensive nature of the Settlement Agreement, LG&E's willingness to implement job briefing documentation methods for its own crews and resident contractors and to request the same of its mutual assistance crews and off-system contractor crews, and LG&E's cooperation in achieving a resolution of this proceeding.

Based on the evidence of the record and being otherwise sufficiently advised, the Commission finds that the Settlement Agreement is in accordance with the law and does not violate any regulatory principle. The Settlement Agreement 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 joint Stipulation of Facts and Settlement Agreement is adopted and approved in its entirety as a complete resolution of all issues in this case.

2. LG&E shall pay \$200.00 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, Kentucky Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

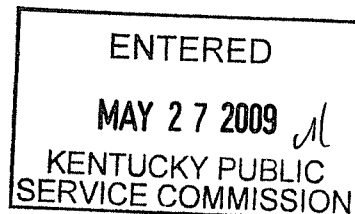
3. LG&E shall file, within 30 days of the date of this Order, a notice setting forth the name and job title of the LG&E employee who will be responsible for ensuring that:

(a) All LG&E crews and resident contractor crews maintain written documentation of their daily job briefings; and

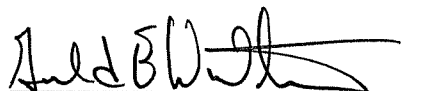
(b) LG&E issues a request to all of their mutual assistance crews and off-system contractor crews to maintain written documentation of their daily job briefings.

4. Upon payment of the \$200.00 civil penalty and the filing of the notice referenced in the ordering paragraph above, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

By the Commission



ATTEST:



for: Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2009-00014 DATED **MAY 27 2009**

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

MAY 13 2009

PUBLIC SERVICE  
COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC )  
COMPANY )  
\_\_\_\_\_ ) CASE NO. 2009-00014  
)  
ALLEGED FAILURE TO COMPLY WITH )  
KRS 278.042 )

**STIPULATION OF FACTS AND SETTLEMENT AGREEMENT**

By Order dated February 11, 2009, the Kentucky Public Service Commission (“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 alleged 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 (“NESC”), which was published most recently by the Institute of Electrical and Electronics Engineers, Inc. in 2007.

The one alleged violation of the NESC cited by the Commission Staff in its November 17, 2008 Report (“Report”) is NESC Section 420-C-4 which provides: “Employees who work on or in the vicinity of energized lines shall consider all of the effects of their actions, taking into account their own safety as well as the safety of other employees on the job site, or on some other part of the affected electric system, the property of others, and the public in general.”

The Commission's Order of February 11, 2009 arose out of an incident which occurred on July 3, 2008, when a worker received minor secondary flash burns to the neck and face while energizing electric service to a newly constructed apartment building located at 5302 Lowerfield Road in Louisville, Kentucky. The worker was treated with non-prescription, over-the-counter topical cream at a hospital and released without an overnight stay.

On February 24, 2009, LG&E filed a response to the Commission's February 11, 2009 Order. LG&E's response denies that there was a willful violation of the NESC rules. In response to LG&E's request for an informal conference, the Commission suspended the hearing that had been set for March 4, 2009, and scheduled an informal conference on that date instead.

As a result of discussion 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 February 11, 2009 Order in this case, accurately describes and sets forth the material facts and circumstances surrounding the incident giving rise to the Order.

2. Effective April 22, 2009, LG&E agrees to require all of its employees and resident contractors who perform work on LG&E's electric distribution system to document in writing that they have had a daily job briefing. In addition, in emergency Passport training sessions, LG&E will request that all mutual assistance or off-system

contractors who perform work on LG&E's electric distribution system document in writing their daily job briefings. LG&E notes that the mutual assistance or off-system contractors who are typically utilized under extraordinary circumstances are high-quality, professional workers and generally work in accordance with the established safety guidelines in place in the regions in which they typically operate. Nothing 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.

3. LG&E agrees to pay a civil penalty in the amount of TWO HUNDRED DOLLARS (\$200) in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's February 11, 2009 Show Cause Order on 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. 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 Electric Utility Personal Injury Accident Report or the Electric Utility Inspection 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 Commission Staff reserve the right 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. 2009-00014, 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 Commission 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 5<sup>th</sup> day of May 2009.

**LOUISVILLE GAS AND ELECTRIC COMPANY**

By: C. David Gray  
Title: DIRECTOR OF SYSTEM RESTORATION

**STAFF OF THE KENTUCKY PUBLIC SERVICE COMMISSION**

By: Rick Bertelson  
Rick Bertelson, Staff Attorney



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