

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC COMPANY)
_____) CASE NO. 2009-00210
)
ALLEGED FAILURE TO COMPLY)
WITH KRS 278.042)

O R D E R

By Order dated June 19, 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(1) for five probable violations of KRS 278.042, which requires an electric utility to construct and maintain its plant and facilities in accordance with accepted engineering practices as set forth in the most recent edition of the National Electrical Safety Code ("NESC").¹

The Commission's Order arose from a February 1, 2009 accident involving Mark McCoy, an employee with C.W. Wright Construction Company ("Wright Construction"). Wright Construction, a Virginia contractor, was assisting LG&E in the cleanup and restoration efforts resulting from the damage caused by the late January ice storms. At the time of the incident, Mr. McCoy was working with his crew clearing damaged services on a 7,200-volt, single-phase circuit in order to make the area safe. Mr. McCoy was near the top of a utility pole located behind a residence at 3309 Natchez Lane in Louisville, Kentucky. While working on the utility pole, Mr. McCoy attempted to close

¹ The most recent edition of the NESC was published by the Institute of Electrical and Electronics Engineering, Inc. in 2007.

the fuse door of the cut-out by hand. Because the cut-out was still energized and because Mr. McCoy was not wearing any protective gloves and had failed to test and ground the tap line, Mr. McCoy sustained first- and second-degree burns to his right hand and forearm and to the right side of his neck and face.

LG&E filed an answer to the show cause Order and requested an informal conference, which was held at the Commission's offices on August 12, 2009. At the informal conference, LG&E provided a detailed description of its Passport Program,² including processes such as training and certification of contract employees on the importance of safety and the hazards associated with working in an industrial environment. Wright Construction was certified under LG&E's Passport Program.

As a result of informal conference, LG&E and Commission Staff entered into a Stipulation of Facts and Settlement Agreement ("Stipulation") on October 30, 2009. The Stipulation, attached hereto as an Appendix and incorporated herein by reference, sets forth an agreed-upon summary of the facts and provides for the payment of \$6,000 in full settlement of this proceeding.

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 pay a civil penalty as well as its cooperation 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, does not violate any regulatory principle, is in the public

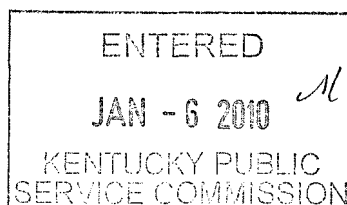
² LG&E's Passport Program is designed to enhance the safety and welfare of the company's contractors who visit and work in and around the company's facilities.

interest, results in a reasonable resolution of all issues in this case, and should be approved.

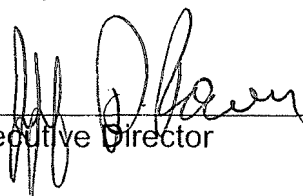
IT IS THEREFORE ORDERED that:

1. The Stipulation is approved.
2. The terms and conditions set forth in the Stipulation appended hereto are incorporated into this Order as if fully set forth herein.
3. This case is closed and removed from the Commission's docket.

By the Commission



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2009-00210 DATED JAN - 6 2010

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC COMPANY)	
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_____)	CASE NO.
)	2009 -00210
ALLEGED FAILURE TO COMPLY WITH KRS)	
278.042)	

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated June 19, 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 alleged 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"), which was published most recently by the Institute of Electrical and Electronics Engineers, Inc. in 2007.

The Commission's Order of June 19, 2009 arose out of an incident which occurred on February 1, 2009, during the unprecedented cleanup and restoration efforts following the ice storms that occurred in late January 2009. In this instance, Mark McCoy, a worker from C. W. Wright Construction Company, an out-of-state mutual assistance provider, sustained a shock and first- and second-degree flash burns to his right hand and forearm as well as the right side of his neck and face while working on

clearing damaged services on a 7,200-volt, single-phase circuit behind a residence located at 3309 Natchez Lane in Louisville, Kentucky.

On July 1, 2009, LG&E filed a response to the Commission's June 19, 2009 Order. LG&E's response denies that there were willful violations 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 September 8, 2009, and scheduled an informal conference on August 12, 2009 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 June 19, 2009 Order in this case, accurately describes and sets forth the material facts and circumstances surrounding the incident giving rise to the Order, and further states that Mr. McCoy was working with an out-of-state crew activated through utility mutual assistance efforts to restore service resulting from an ice storm that led to widespread and unprecedented outages throughout the LG&E and Kentucky Utilities Company service territories.

2. LG&E and the Commission Staff agree that, based on the facts and circumstances of the incident, no specific remedial measures need to be undertaken.

3. LG&E agrees to pay a civil penalty in the amount of \$6,000 in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's June 19, 2009 Order to whether LG&E should be assessed a penalty

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 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.

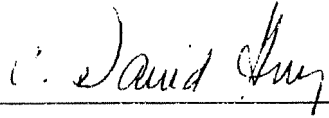
4. In the event that the Commission does not accept this Stipulation in its entirety, LG&E and Commission Staff reserve their rights to withdraw therefrom and require that a hearing be held on any and all issues involved herein, and that none of the provisions contained herein shall be binding upon the 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. 2009-00210, 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.

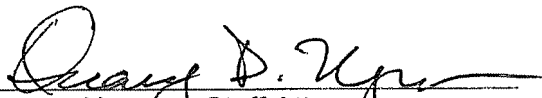
Dated this __30th__ day of October, 2009.

LOUISVILLE GAS AND ELECTRICT COMPANY

By: 

Title: Director, System Restoration & Dispatch Operations

STAFF OF THE KENTUCKY PUBLIC SERVICE COMMISSION

By: 
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