

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GRAYSON RURAL ELECTRIC  
COOPERATIVE CORPORATION.

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ALLEGED FAILURE TO COMPLY WITH  
KRS 278.042

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)  
) CASE NO.  
) 2010-00249  
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O R D E R

By Order dated August 12, 2010, the Commission directed Grayson Rural Electric Cooperative Corporation ("Grayson") to show cause why it should not be subject to the penalties provided under KRS 278.990 for 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 is the 2007 edition. The alleged violations cited in the Commission's August 12, 2010 Order are as follows:

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

3. NESC Section 41, 411-A-3: Employees shall be instructed as to the character of the equipment or lines and methods to be used before any work is undertaken thereon.
4. NESC Section 42, 420-H: Employees shall use the personal protective equipment, the protective devices, and the special tools provided for their work. Before starting work, these devices and tools shall be carefully inspected to make sure that they are in good condition.
5. NESC Section 42, 421-A: Duties of a First-Level Supervisor or Person in Charge. This individual shall: (1) Adopt such precautions as are within the individual's authority to prevent accidents. (2) See that the safety rules and operating procedures are observed by the employees under the direction of this individual.
6. NESC Section 44, 441-A: Employees shall not approach, or knowingly permit others to approach, any exposed ungrounded part normally energized except as permitted by this rule.
  - A. Minimum Approach Distance to Live Parts
    - (1) General  
Employees shall not approach or bring any conductive object within the minimum approach distance listed in Table 441-1 or Table 441-4 to exposed parts unless one of the following is met:
      - (a) The line or part is de-energized and grounded per Rule 444D.
      - (b) The employee is insulated from the energized line or part. Electrical protective equipment insulated for the voltage involved, such as tools, gloves, rubber gloves, or rubber gloves with sleeves, shall be considered effective insulation for the employee from the energized part being worked on.
      - (c) The energized line or part is insulated from the employee and from any other line or part at a different voltage.
      - (d) The employee is performing barehand live-line work according to Rule 446.
7. NESC Section 44, 444-D: When all the switches and disconnectors designated have been operated, rendered inoperable where practical, and tagged in accordance with Rule 444C, and the employee has been given permission to work by the designated person, the employee in charge should immediately proceed to make the employees [sic] own protective grounds or verify that adequate grounds have been applied (see Rule 445) on the disconnected lines or equipment. During the testing for potential and/or application of grounds, distances not less than those shown in Table 441-1, Table 441-2, and Table 441-3, as applicable, shall be maintained.

Grounds shall be placed at each side of the work location and as close as practical to the work location, or a worksite ground shall be placed at the work location. If work is to be performed at more than one location on a line section, the line section shall be grounded and short-circuited at one location in the line section and the conductor to be worked on shall be grounded at each work location.

The distance in Table 441-1, Table 441-2, or Table 441-3, as applicable, shall be maintained from ungrounded conductors at the work location. Where the making of a ground is impractical, or the conditions resulting therefrom are more hazardous than working on the lines or equipment without grounding, the ground may be omitted by special permission of the designated person.

The August 12, 2010 Order also cited six probable violations of 807 KAR 5:006, Section 24(1), which requires each jurisdictional 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 workers. The alleged violations arise under the American Public Power Association ("APPA") Safety Manual, 14th Edition, which was adopted by the Grayson Board of Directors. Commission Staff alleges that Grayson has violated the following provisions:

1. 115.5(a): The employee in charge shall conduct a job briefing with the employees involved before the start of each job. The job briefing will at least cover the following subjects: hazards associated with the job, work procedures involved, special precautions, energy source controls, and personal protective equipment requirements.
2. 507.1(f): No employee may approach or take any conductive object without an insulating handle closer to exposed energized parts than the minimum approach distances set forth in Table 5.2 through 5.6 unless the employee is insulated from the energized part or the energized part is insulated from the employee and any other conductive object at a different potential, or the employee is insulated from any other conductive object, as during live-line bare-hand work.  
Table 5.2: 7.2 kV Phase to Ground: 2'2" Minimum Approach Distance.
3. 507.6(a): All conductors and equipment shall be treated as energized until tested and grounded.

4. Grayson's Amendments to the APPA Safety Manual, Board Policy 508(II)(A). All employees shall wear rubber gloves FROM THE GROUND UP and lock to lock. (1) Working on any energized structure, regardless of voltage.
5. Grayson's Amendments to the APPA Safety Manual, Board Policy 508(II)(B): Proper grounds shall be installed WITHIN SIGHT ON BOTH SIDES of working area of all workmen before beginning work on any de-energized line, including all primaries and bare secondaries.
6. Grayson's Amendments to the APPA Safety Manual, Board Policy 508(VII)(2): Tail gate conferences will be conducted prior to starting of each job.

The violations cited in the Commission's August 12, 2010 Order arose from a December 20, 2009 incident in Grayson, Kentucky, wherein Joseph Mark Hutchinson, an employee of Grayson, sustained injuries when contact was made with a 7,200-volt energized phase conductor.

On September 1, 2010, Grayson 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 September 13, 2010. 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 the Appendix and incorporated herein by reference, sets forth Grayson's agreement with the statement of facts contained in the Commission Staff's Electric Utility Personal Injury Incident Report ("Report") dated June 7, 2010. The Report was appended to the Commission's August 12, 2010 show cause Order. The Settlement Agreement also discusses the remedial actions to be taken by Grayson and a civil penalty in the amount of \$5,000.00 that Grayson 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, Grayson's willingness to implement monthly safety audits and increased training, and Grayson'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. Grayson shall pay \$5,000.00 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. Within 10 days of the date of entry of this Order, Grayson shall provide to the Commission a copy of its safety audit checklist.
4. Beginning with the first full calendar month following the date of entry of this Order, Grayson shall begin performing monthly safety audits on all employee and

contract crews.<sup>1</sup> Grayson shall file a quarterly report of these safety audits for the next 12 months with the Commission.

5. Beginning with the first full calendar month following the date of entry of this Order, Grayson shall file the monthly safety reports presented to its Board of Directors for the next 12 months with the Commission on a quarterly basis.

6. Grayson shall send its foremen to the new statewide Kentucky Association of Electric Cooperatives foreman training program as space becomes available, and provide proof to the Commission within 30 days of their attendance.

7. Grayson shall maintain and provide any of these documents to Commission inspectors upon request and during the inspectors' periodic inspections.

8. The hearing scheduled for September 23, 2010 is cancelled.

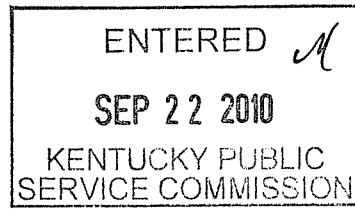
9. Upon payment of the \$5,000.00 civil penalty, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

10. Any documents filed in the future pursuant to ordering paragraphs 3 through 6 herein shall reference this case number and shall be retained in the utility's general correspondence file.

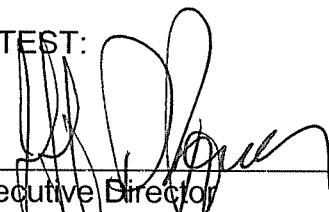
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<sup>1</sup> Commission Staff and Grayson agreed that contract crews for vegetation management that do not break the minimum approach distance contained in the NESC will not have to be audited on a monthly basis. However, Grayson should still insure that these crews are trained and follow the safety policies and procedures.

By the Commission



ATTEST:

  
\_\_\_\_\_  
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2010-00249 DATED

**SEP 22 2010**



COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

SEP 17 2010

In the Matter of:

PUBLIC SERVICE  
COMMISSION

GRAYSON RURAL ELECTRIC  
COOPERATION CORPORATION

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ALLEGED FAILURE TO COMPLY  
WITH KRS 278.042

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CASE NO. 2010-00249

**STIPULATION OF FACTS AND SETTLEMENT AGREEMENT**

This agreement is formally known as a Stipulation of Facts and Settlement Agreement ("Settlement Agreement"). The parties to this Settlement Agreement are Grayson Rural Electric Cooperation Corporation ("Grayson") and Staff of the Kentucky Public Service Commission ("Commission Staff"). It is the intent and purpose of the parties hereto to express their agreement on a mutually satisfactory resolution of all of the issues in the proceeding.

It is understood by the parties that this Settlement Agreement is not binding upon the Public Service Commission ("Commission"). The Commission must independently approve and adopt this Settlement Agreement before this matter can be deemed concluded and removed from the Commission's docket. The parties have expended considerable efforts to reach a stipulation as to the facts of this matter, as well as in developing a proposal for settlement. Grayson and Commission Staff agree that this Settlement Agreement, viewed in its entirety, constitutes a reasonable resolution of all issues in this proceeding.

In addition, the adoption of this Settlement Agreement will eliminate the need for the Commission, Commission Staff, and Grayson to expend significant resources in litigating this proceeding and will eliminate the possibility of, and any need for, rehearing or appeals of the Commission's final Order.

### **FACTS**

Grayson and the Commission Staff submit this stipulation of facts for the Commission's consideration in rendering a decision in this proceeding. Commission Staff developed and submitted to the Commission an Electric Utility Personal Injury Accident Report ("Report") on this matter dated June 7, 2010. The Report describes an incident which occurred on December 20, 2009, in Grayson, Kentucky, in which Joseph Mark Hutchinson, an employee of Grayson, was injured when he when made contact with an energized 7200 volt phase conductor. Grayson and Commission Staff agree that the Report fairly and accurately describes the events which occurred on the day of the December 20, 2009 incident.

According to the Report, Mr. Hutchinson and another Grayson employee, Scott Speaks were working outages on Rattlesnake Fork, south of Grayson, Kentucky. They found a primary jumper that had burnt off on a single phase line. Mr. Hutchinson decided to open a cutout to de-energize the area where the jumper that needed to be repaired was located, however, the cutout he opened did not de-energize the area to be worked on. Mr. Hutchinson climbed the pole, without his rubber gloves, and at this point made contact with the energized phase conductor. Mr. Hutchinson was able to climb down the pole himself and was taken to the hospital. He sustained burns on his left little finger and right arm near the elbow.

### Show Cause Order

By a Show Cause Order dated, August 12, 2010, the Commission initiated this proceeding to determine whether Grayson should be subject to the penalties prescribed in KRS 278.990 for seven probable violations of KRS 278.042, which requires an electric utility to construct and maintain its plant and facilities in accordance with the 2007 edition of the NESC. The seven alleged violations cited in the Commission's August 12, 2010, Order are as follows:

1. NESC Section 42, 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..
2. NESC Section 42, 420-D: Employees shall consider electric supply equipment and lines to be energized, unless they are positively known to be de-energized. Before starting work, employees shall perform preliminary inspections or tests to determine existing conditions. Operating voltages of equipment and lines should be known before working on or in the vicinity of energized parts..
3. NESC Section 41, 411-A-3: Employees shall be instructed as to the character of the equipment or lines and methods to be used before any work is undertaken thereon.
4. NESC Section 42, 420-H: Employees shall use the personal protective equipment, the protective devices, and the special tools provided for their work. Before starting work, these devices and tools shall be carefully inspected to make sure that they are in good condition.
5. NESC Section 42, 421-A: Duties of a First-Level Supervisor or Person in Charge. This individual shall: (1) Adopt such precautions as are within the individual's authority to prevent accidents. (2) See that the safety rules and operating procedures are observed by the employees under the direction of this individual.
6. NESC Section 44, 441-A: Employees shall not approach, or knowingly permit others to approach, any exposed ungrounded part normally energized except as permitted by this rule.
  - A. Minimum Approach Distance to Live Parts

(1) General

Employees shall not approach or bring any conductive object within the minimum approach distance listed in Table 441-1 or Table 441-4 to exposed parts unless one of the following is met:

(a) The line or part is de-energized and grounded per Rule 444D.

(b) The employee is insulated from the energized line or part. Electrical protective equipment insulated for the voltage involved, such as tools, gloves, rubber gloves, or rubber gloves with sleeves, shall be considered effective insulation for the employee from the energized part being worked on.

(c) The energized line or part is insulated from the employee and from any other line or part at a different voltage.

(d) The employee is performing barehand live-line work according to Rule 446.

7. NESC Section 44, 444-D: When all the switches and disconnectors designated have been operated, rendered inoperable where practical, and tagged in accordance with Rule 444C, and the employee has been given permission to work by the designated person, the employee in charge should immediately proceed to make the employees own protective grounds or verify that adequate grounds have been applied (see Rule 445) on the disconnected lines or equipment. During the testing for potential and/or application of grounds, distances not less than those shown in Table 441-1, Table 441-2, and Table 441-3, as applicable, shall be maintained.

Grounds shall be placed at each side of the work location and as close as practical to the work location, or a worksite ground shall be placed at the work location. If work is to be performed at more than one location on a line section, the line section shall be grounded and short-circuited at one location in the line section and the conductor to be worked on shall be grounded at each work location.

The distance in Table 441-1, Table 441-2, or Table 441-3, as applicable, shall be maintained from ungrounded conductors at the work location. Where the making of a ground is impractical, or the conditions resulting therefrom are more hazardous than working on the lines or equipment without grounding, the ground may be omitted by special permission of the designated person.

The August 12, 2010 Order also cited six probable violations of Commission Regulation 807 KAR 5:006, Section 24(1) which requires each jurisdictional 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 workers. The alleged violations arise under the American Public Power Association: (APPA Safety Manual 14th Edition), which was adopted by the Grayson Board of Directors. Commission Staff alleges that Grayson has violated the following provisions:

1. 115(5): The employee in charge shall conduct a job briefing with the employees involved before the start of each job. The job briefing will at least cover the following subjects: hazards associated with the job, work procedures involved, special precautions, energy source controls, and personal protective equipment requirements.
2. 507(1)(f): No employee may approach or take any conductive object without an insulated handle closer to exposed energized parts than the minimum approach distance set forth in Table 5.2 through 5.6 unless the employee is insulated from the energized part or the energized part is insulated from the employee and the conductive object at a different potential, or the employee is insulated from any other conductive object, as during live-line work.  
Table 5.2: 7.2 kV Phase to Ground: 2'2" Minimum Approach Distance.
3. 507(6): All conductors and equipment shall be treated as energized until tested and grounded.
4. Grayson's Amendments to the APPA Safety Manual: Board Policy 508(II)(A): All employees shall wear rubber gloves FROM THE GROUND UP and lock to lock. (1) Working on any energized structure, regardless of voltage.
5. 508(II)(B): Proper grounds shall be installed WITHIN SIGHT ON BOTH SIDES of working area or all workmen before beginning work on any de-energized line, including all primaries and bare secondaries.
6. 508(VII)(2): Tail gate conferences will be conducted prior to start of each job.

On September 1, 2010, Grayson filed a response to the Commission's August 12, 2010, Order. In its response, Grayson requested an informal conference be held in this matter. Pursuant to that request, an informal conference was scheduled in this

matter for September 13, 2010, at the Commission's Frankfort offices. Representatives of Grayson, were in attendance, as were Commission Staff.

During the informal conference representatives of Grayson confirmed that they have made changes to their documentation systems, safety reports and have re-enforced the provisions of their safety program.

### **SETTLEMENT AGREEMENT**

As a result of discussions held during the informal conference, Grayson and the Commission Staff submit the following settlement agreement for the Commission's consideration in rendering its decision in this proceeding:

1. Grayson agrees that the Commission Staff's Electric Utility Personal Injury Accident Report, Appendix A to the Commission's August 12, 2010, Order in this matter, accurately describes and sets forth the material facts and circumstances surrounding the December 20, 2009 incident.
2. Grayson agrees to pay a civil penalty in the amount of FIVE THOUSAND DOLLARS (\$5,000), within 30 days from the date of this order, in full settlement of this proceeding.
3. The scope of this proceeding is limited by the Commission's August 12, 2010 Show Cause Order on whether Grayson should be assessed penalties under KRS 278.990 for a willful violations of the NESC rules as made applicable under KRS 278.042, for willful violations of KAR 5:0006, and the adequacy, safety, and reasonableness of its practices related to the construction, installation and repair of electric facilities and whether such practices require revision. Neither the payment of the civil penalty, nor any other agreement contained in this Settlement Agreement, shall be construed as an admission by Grayson 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 Settlement Agreement be construed as a finding of a willful violation of any Commission regulation or NESC rule.
4. Within 10 days of the date of entry of the Order approving this Settlement Agreement, Grayson shall provide to the Commission a copy of its safety audit checklist.

5. Beginning with the first full calendar month following the date of entry of the Order approving this Settlement Agreement, Grayson shall begin performing monthly safety audits on all employee and contract crews.<sup>1</sup> Grayson shall file with the Commission a quarterly report of these safety audits for the next twelve months.

6. Beginning with the first full calendar month following the date of entry of the Order approving the Settlement Agreement, Grayson shall file with the Commission on a quarterly basis, the monthly safety reports presented to its Board of Directors for the next twelve months.

7. Grayson shall send its foremen to the new statewide KAAC foreman training program as space becomes available, and provide proof of attendance to the Commission within 30 days of the attendance.

8. Grayson shall maintain and provide any of these documents to Commission inspectors upon request and during the inspectors' periodic inspections.

9. In the event that the Commission does not accept this Settlement Agreement in its entirety, Grayson and Commission Staff reserve their rights to withdraw from it and require that a hearing be held on any and all issues involved and that none of the provisions contained within this Settlement Agreement shall be binding upon the parties, used as an admission by Grayson of any liability in any legal proceeding, administrative proceeding or lawsuit arising out of the facts set forth in the Accident Report and the Inspection Report or otherwise used as an admission by either party.

10. This Settlement Agreement is for use in Commission Case No. 2010-00249, and no party to this matter shall be bound by any part of this Settlement Agreement in any other proceeding, except that this Settlement Agreement may be used in any proceedings by the Commission to enforce the terms of this Settlement Agreement or to conduct a further investigation of Grayson's service. Grayson shall not be precluded or estopped from raising any issue, claim or defense therein by reason of the execution of this Settlement Agreement.

11. Grayson and Commission Staff agree that this Settlement Agreement is reasonable, is in the public interest, and should be adopted in its entirety by the Commission. If adopted by the Commission, Grayson agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

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<sup>1</sup> Commission Staff and Grayson agreed that contract crews for vegetation management that do not break the minimum approach distance contained in the NESC, will not have to be audited on a monthly basis. However, Grayson should still insure that these crews are trained and follow the safety policies and procedures.

**GRAYSON RURAL ELECTRIC COOPERATION CORPORATION**

By: (print name) W. Jeffrey Scott

By: (sign name) W. Jeffrey Scott

Title: Gen. Counsel for G.R.E.C.C.

Date: 9-16-10

**STAFF OF THE KENTUCKY PUBLIC SERVICE COMMISSION**

By: (print name) L. Allyson Honaker

By: (sign name) L. Allyson Honaker

Title: Staff Attorney

Date: 9-17-10



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