

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 ) 2012-00103

O R D E R

By Order dated March 28, 2012, 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 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 Electric Safety Code (“NESC”), which is the 2007 edition. The alleged violations cited in the Commission’s March 28, 2012 Order are as follows:

1. 2007 NESC Section 42, Rule 420. C—General Rules for Employees—Personal General Precautions—Safeguarding Oneself and Others
  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.
  5. No employee shall approach or bring any conductive object, without a suitable insulating handle, closer to any exposed energized part than allowed by Rule 431 (communication) or Rule 441 (supply), as applicable.
2. 2007 NESC Section 42, Rule 420. H—Personal General Precautions—Tools and Protective Equipment

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.

3. 2007 NESC Section 42, Rule 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 safety rules and operating procedures are observed by the employee under the direction of this individual . . . . 5. Prohibit the use of tools or devices unsuited to the work at hand or that have not been tested or inspected as required.

4. 2007 NESC Section 44, Rule 441.1—Additional Rules for supply employees—Energized Conductors or Parts—Minimum Approach Distance to Live Parts—General

Employees shall not approach, or knowingly permit others to approach any exposed ungrounded part normally energized except as permitted by this rule. Minimum Approach Distance to live parts. Employees shall not approach or bring any conductive objects 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 rubber sleeves, shall be considered effective insulation for the employee from the energized part being worked. c. The energized line or part is insulated from the employee and from any other line or part at different voltages. d. The employee is performing barehand live-line work according to Rule 446.

5. 2007 NESC Section 44, Rule 443.A.3—Work on Energized Lines and Equipment—General Requirements

All employees working on or in the vicinity of lines or equipment exposed to voltages higher than those guarded against by the safety protective equipment provided shall assure themselves that the equipment or lines on which they are working are free from dangerous leakage or induction, or have been effectively grounded.

6. 2007 NESC Section 44, Rule 444—De-energizing Equipment or Lines to Protect Employees—D. Employee's Protective Grounds

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 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 on the line section and the conductor to be worked on shall be grounded at each 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.

E. Proceeding with work—1. After the equipment or lines have been de-energized and grounded per Rule 444D, the employee in charge, and those under the direction of the employee in charge, may proceed with work on the de-energized parts. Equipment may be re-energized for testing purposes only under the supervision of the employee in charge and subject to authorization by the designated person.

7. 2007 NESC Section 44, Rule 446—Protective grounds—A. Installing grounds

2. Initial connections—Before grounding any previously energized part, the employee shall first securely connect one end of the grounding device to an effective ground. Grounding switches may be employed to connect the equipment or lines being grounded to the actual ground connections.

4. Completing Grounds—  
a. If the part shows no voltage, the grounding may be completed.  
b. If voltage is present, the source shall be determined to ensure that presence of this voltage does not prohibit completion of the grounding.  
c. After the initial connections are made to ground, the grounding device shall next be brought into contact with the previously energized part using

insulating handles or other suitable devices and securely clamped or otherwise secured thereto. Where bundled conductor lines are being grounded, grounding of each subconductor should be made. Only then may the employee come within the distances from the previously energized parts specified in Rule 441A or proceed to work upon the parts as upon a grounded part.

8. 2007 NESC Section 41, Rule 411—Protective methods and devices—E. Identification and location

Means shall be provided so that identification of supply and communication lines can be determined before work is undertaken. Persons responsible for underground facilities shall be able to indicate the location of their facilities.

9. 807 KAR 5:006, Section 22. System Maps and Records.

(1) Each utility shall have on file at its principal office located within the state and shall file upon request with the commission a map or maps of suitable scale of the general territory it serves or holds itself ready to serve showing the following:

- (a) Operating districts.
- (b) Rate districts.
- (c) Communities served.
- (d) Location and size of transmission lines, distribution lines and service connections.
- (e) Location and layout of all principal items of plant.
- (f) Date of construction of all items of plant by year and month.

(2) In each division or district office there shall be available information relative to the utility's system that will enable the local representative to furnish necessary information regarding the rendering of service to existing and prospective customers.

(3) In lieu of showing the above information on maps, a card record or other suitable means may be used. For all construction the records shall also show the date of construction by month and year.

The violations cited in the Commission's March 28, 2012 Order arose from a July 20, 2011 incident in Louisville, Kentucky, wherein Matthew Christy, an employee of Fishel Company ("Fishel"), a contractor for LG&E, sustained injuries from a shock and

burn accident while making repairs on a section of underground residential distribution (“URD”) located at 15500 Bridal Gate Drive.

On April 17, 2012, LG&E submitted an answer to the Commission’s March 28, 2012 Order and a request for an informal conference. The informal conference was held at the Commission’s offices on May 1, 2012. 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 an Appendix 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”), signed and dated December 6, 2011. The Report was appended to the Commission’s March 28, 2012 Order. The Settlement Agreement also discusses the remedial actions taken by LG&E and a civil penalty in the amount of \$22,500.00, \$11,500.00 of which 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 actions taken after the accident, 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 is assessed a penalty of \$22,500.00.

3. LG&E shall pay \$11,250.00 of the \$22,500.00 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.

4. The remaining \$11,250.00 of the civil penalty is suspended on the condition that LG&E abide by the terms contained in the Settlement Agreement and provide all required documentation (as described in paragraphs 4, 5 and 6 of the Settlement Agreement) within the time allotted, and have no related reportable incidents investigated by the Commission that occur during the time the penalty is suspended which results in a similar proceeding being established by the Commission and penalties being paid by LG&E.

5. Within 30 days of the date of entry of this Order approving the Settlement Agreement, LG&E shall provide to the Commission documentation that training on proper grounding procedures has been given to LG&E employees during safety meetings, including the type of training and who attended.

6. Within 30 days of the date of entry of this Order approving the Settlement Agreement, LG&E shall provide to the Commission documentation that proper grounding procedures were addressed with its contractors at its contractor safety

meeting on May 11, 2012, including the manner it was addressed and which contractors were represented.

7. Within 30 days of the date of entry of this Order approving the Settlement Agreement, LG&E shall provide documentation that all known GIS Mapping deficiencies on its URD system as of April 30, 2012 have been corrected.

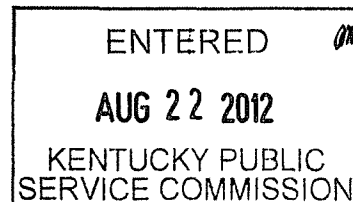
8. LG&E will inspect its URD systems during its normal two-year system inspection process to verify that device numbers are accurately reflected in the GIS Mapping system.

9. The hearing scheduled for September 25, 2012 is cancelled.

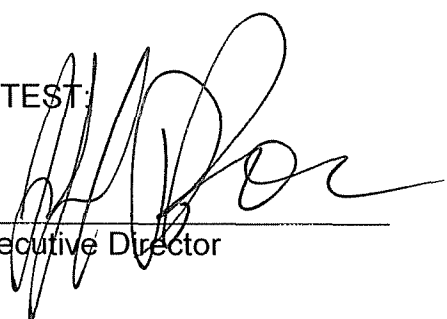
10. Upon payment of the \$11,250.00 civil penalty, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

11. Any documents filed in the future pursuant to ordering paragraphs 5 and 6 herein shall reference this case number and shall be retained in the utility's general correspondence file.

By the Commission



ATTEST:

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

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2012-00103 DATED **AUG 22 2012**



COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC )  
COMPANY )  
\_\_\_\_\_ ) CASE NO. 2012-00103  
)  
ALLEGED FAILURE TO COMPLY )  
WITH KRS 278.042 )

**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 Louisville Gas and Electric Company ("LG&E") 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. LG&E 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 LG&E 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**

LG&E 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 signed and dated December 6, 2011. The Report describes an incident which occurred on July 20, 2011, in Louisville, Kentucky, in which Matthew Christy, an employee of Fishel Company ("Fishel"), a contractor for LG&E, was injured while making repairs to a 12Kv underground residential distribution ("URD"). LG&E and Commission Staff agree that the Report fairly and accurately describes the events which occurred on the day of the July 20, 2011, incident.

According to the Report, on the day of the accident the victim was working with another Fishel employee, Jimmy Williams. An arc occurred while the crew was making repairs in a pull box. Mr. Williams instructed Mr. Christy to open the pull box to remove and test the conductors. Mr. Christy stated he put on his 20,000 volt gloves and sleeves and tested the conductor which indicated the conductor was not energized. Mr. Christy removed his gloves and sleeves to make the repairs. He removed the elbow from the feed through and touched it to the eye bolt on the feed through, which caused it to arc. Mr. Christy was transported to the University of Louisville Hospital and was treated for injuries to his left foot and both hands.

### Show Cause Order

By a Show Cause Order dated, March 28, 2012, the Commission initiated this proceeding to determine whether LG&E should be subject to the penalties prescribed in KRS 278.990 for eight 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 and for one violation of KAR 5:006. The alleged violations cited in the Commission's March 28, 2012, Order are as follows:

1. 2007 NESC Section 42, Rule 420.C—General Rules for Employees—Personal General Precautions—Safeguarding Oneself and Others—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. 5. No employee shall approach or bring any conductive object, without a suitable insulating handle, closer to any exposed energized part than allowed by Rule 431 (communication) or Rule 441 (supply), as applicable.
2. 2007 NESC Section 42, Rule 420.H—Personal General Precautions—Tools and Protective Equipment—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.*
3. 2007 NESC Section 42, Rule 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 safety rules and operating procedures are observed by the employee under the direction of this individual. 5. Prohibit the use of tools or devices unsuited to the work at hand or that have not been tested or inspected as required.
4. 2007 NESC Section 44, Rule 441.1—Additional Rules for supply employees—Energized Conductors or Parts—Minimum Approach Distance to Live Parts—General— Employees shall not approach, or knowingly permit others to approach any exposed ungrounded part normally energized except as permitted by this rule. Minimum Approach Distance to live parts. *Employees shall not approach or bring any conductive objects 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 rubber sleeves, shall be considered effective insulation for the employee from the energized part being worked. c. The energized line or part is insulated from the employee and from any other line or part at different voltages. d. The employee is performing barehand live-line work according to Rule 446.

5. 2007 NESC Section 44, Rule 443.A.3—Work on Energized Lines and Equipment—General Requirements—All employees working on or in the vicinity of lines or equipment exposed to voltages higher than those guarded against by the safety protective equipment provided shall assure themselves that the equipment or lines on which they are working are free from dangerous leakage or induction, or have been effectively grounded.
6. 2007 NESC Section 44, Rule 444—De-energizing Equipment or Lines to Protect Employees—D. Employee's Protective Grounds—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 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 on the line section and the conductor to be worked on shall be grounded at each 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. E. Proceeding with work—1. After the equipment or lines have been de-energized and grounded per Rule 444D, the employee in charge, and those under the direction of the employee in charge, may proceed with work on the de-energized parts. Equipment may be re-energized for testing purposes only under the supervision of the employee in charge and subject to authorization by the designated person.
7. 2007 NESC Section 44, Rule 446—Protective grounds—A. Installing grounds—2. Initial connections—Before grounding any previously energized part, the employee shall first securely connect one end of the grounding device to an effective ground. Grounding switches may be employed to connect the equipment or lines being grounded to the actual ground

connections.—4. Completing Grounds—a. If the part shows no voltage, the grounding may be completed. b. If voltage is present, the source shall be determined to ensure that presence of this voltage does not prohibit completion of the grounding. c. After the initial connections are made to ground, the grounding device shall next be brought into contact with the previously energized part using insulating handles or other suitable devices and securely clamped or otherwise secured thereto. Where bundled conductor lines are being grounded, grounding of each subconductor should be made. Only then may the employee come within the distances from the previously energized parts specified in Rule 441A or proceed to work upon the parts as upon a grounded part.

8. 2007 NESC Section 41, Rule 411—Protective methods and devices—E. Identification and location—Means shall be provided so that identification of supply and communication lines can be determined before work is undertaken. Persons responsible for underground facilities shall be able to indicate the location of their facilities.

Commission Staff also alleges that LG&E has violated the following provision of

807 KAR 5:006:

Section 22. System Maps and Records.

- (1) Each utility shall have on file at its principal office located within the state and shall file upon request with the commission a map or maps of suitable scale of the general territory it serves or holds itself ready to serve showing the following:
  - (a) Operating districts.
  - (b) Rate districts.
  - (c) Communities served.
  - (d) Location and size of transmission lines, distribution lines and service connections.
  - (e) Location and layout of all principal items of plant.
  - (f) Date of construction of all items of plant by year and month.
- (2) In each division or district office there shall be available information relative to the utility's system that will enable the local representative to furnish necessary information regarding the rendering of service to existing and prospective customers.
- (3) In lieu of showing the above information on maps, a card record or other suitable means may be used. For all construction the records shall also show the date of construction by month and year.

On April 17, 2012, LG&E filed a response to the Commission's March 28, 2012, Order. In its response, LG&E requested an informal conference be held in this matter. Pursuant to that request, an informal conference was scheduled in this matter for May 1, 2012, at the Commission's Frankfort offices. Representatives of LG&E were in attendance, as were Commission Staff.

During the informal conference representatives of LG&E confirmed that they have taken proactive steps to enhance the safety program of contractors. LGE informed Commission staff during the informal conference the injured employee is no longer employed by Fishel and the supervisor at the time of the incident no longer works as a supervisor on LG&E projects for Fishel. LG&E also made Fishel in Louisville stand down until after the incident.

### **SETTLEMENT AGREEMENT**

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

1. LG&E agrees that the Commission Staff's Electric Utility Personal Injury Accident Report, Appendix A to the Commission's March 28, 2012, Order in this matter, accurately describes and sets forth the material facts and circumstances surrounding the July 20, 2011, incident.
2. LG&E agrees to pay a total civil penalty in the amount of ELEVEN THOUSAND TWO HUNDRED AND FIFTY DOLLARS (\$11,250), within 30 days of the date of entry of the Order approving this Settlement Agreement, in full settlement of this proceeding. The total maximum fine allowed is twenty-two thousand five hundred dollars (\$22,500), the remaining eleven thousand two hundred fifty dollars (\$11,250) is suspended on the condition that LG&E abide by the terms contained in this Settlement Agreement, provide all required documentation (as described in paragraphs 4, 5 and 6 below) within the time allotted, and have no related reportable incidents investigated by the PSC which occur during the time the penalty is suspended which results in a similar

proceeding being established by the PSC and penalties being paid by LG&E, LG&E agrees that such suspended penalty shall become due and payable if LG&E does not remedy its failure to comply within 30 days after the Commission has issued written notice to LG&E.

3. The scope of this proceeding is limited by the Commission's March 28, 2012, Show Cause Order on whether LG&E should be assessed penalties under KRS 278.990 for willful violations of the NESC rules as made applicable under KRS 278.042, 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 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 Settlement Agreement be construed as a finding of a willful violation of any Commission regulation or NESC rule.

4. Within 30 days of the date of entry of the Order approving this Settlement Agreement, LG&E shall provide to the Commission documentation that training on proper grounding procedures has been given to LG&E employees during safety meetings including the type of training and who attended.

5. Within 30 days of the date of entry of the Order approving this Settlement Agreement, LG&E shall provide to the Commission documentation that proper grounding procedures was addressed with its contractors at its contractor safety meeting on May 11, 2012, including the manner it was addressed and which contractors were represented.

6. Within 30 days of the date of entry of the Order approving this Settlement Agreement, LG&E shall provide documentation that all known GIS Mapping deficiencies on its URD system as of April 30, 2012, have been corrected.

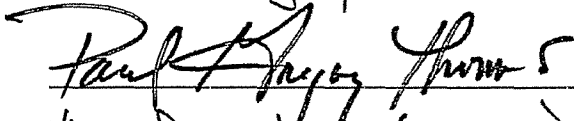
7. LG&E will inspect its URD systems during its normal two year system inspection process to verify that device numbers are accurately reflected in the GIS Mapping system.

8. In the event that the Commission does not accept this Settlement Agreement in its entirety, LG&E 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 LG&E 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.

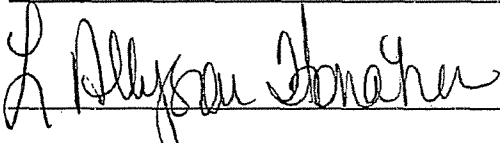
9. This Settlement Agreement is for use in Commission Case No. 2012-00103, and no party to this matter shall be bound by any part of this Settlement Agreement in any other proceeding, except that this Settlement Agreement may be used in any proceedings by the Commission to enforce the terms of this Settlement Agreement or to conduct a further investigation of LG&E's service. LG&E shall not be precluded or estopped from raising any issue, claim or defense therein by reason of the execution of this Settlement Agreement.

10. LG&E 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, LG&E agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

**LOUISVILLE GAS AND ELECTRIC COMPANY**

By: (print name) Paul Gregory Thomas  
By: (sign name)   
Title: Vice President, Energy Delivery  
Date: 06-06-2012

**STAFF OF THE KENTUCKY PUBLIC SERVICE COMMISSION**

By: (print name) L. Allyson Honaker  
By: (sign name)   
Title: Staff Attorney  
Date: 6-8-12



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