

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY POWER COMPANY )  
\_\_\_\_\_ )

ALLEGED FAILURE TO COMPLY )  
WITH KRS 278.042 )

CASE NO. 2016-00279

ORDER

By Order entered August 9, 2016, the Commission initiated this proceeding to determine whether Kentucky Power Company ("Kentucky Power") should be subject to the penalties prescribed in KRS 278.990 for an alleged violation of KRS 278.042, which requires the Commission to ensure that each electric utility constructs and maintains its plant and facilities in accordance with accepted engineering practices as set forth in the Commission's administrative regulations and orders as well as with the most recent edition of the National Electrical Safety Code ("NESC").

The violations giving rise to this case involve an incident occurring on July 12, 2014, during which Jason Michal Grace and Jason Hammons were working to clear brush and weeds on property owned by Wilson Page, located at Stafford Cemetery Road in Paintsville, Kentucky. At approximately 4:00 p.m., Mr. Grace was reportedly injured when the metal blade on the weed trimmer he was operating made contact with a 2/3 service drop (energized triplex conductor) attached to Kentucky Power pole #38830784C00009. The energized triplex conductor was on the ground, entangled

in weeds and vines. Mr. Grace was treated for flash burns on his hands and released from the hospital the same day.

On August 26, 2016, Kentucky Power filed a response to the Commission's Order, admitting to the incident's occurrence but denying that it committed any willful violations of KRS 278.042, the NESC, or the Kentucky Power Inspection Plan. At Kentucky Power's request, an informal conference was conducted with Commission Staff in this matter on September 28, 2016. Post conference, at Commission Staff's request, Kentucky Power filed into the record a summary of the remedial actions it took as a result of the July 12, 2014 incident that is the subject of this case. Kentucky Power's remedial actions include the provision of an employee dedicated solely to inspections in Kentucky Power's Ashland District, and a smaller group of employees concentrating on inspections in its Pikeville and Hazard Districts. Kentucky Power's employees performing inspections have been instructed to inspect for instances in which a meter has been removed and a service drop remains attached; in such situations, the service drop is to be removed. Training and information sessions for all employees performing service work and inspecting distribution facilities have been conducted and documented for all Kentucky Power Districts, and Kentucky Power's training materials have been modified to emphasize the need to perform 360-degree visual inspections and inspect for vertical and horizontal conductor clearance issues. An online training program incorporating the modified training materials was instituted in 2016 and is required annually for all employees performing inspections.

Discussions in the course of the informal conference led to the filing of a Stipulation of Facts and Settlement Agreement ("Stipulation"), for the Commission's

consideration. The Stipulation, attached hereto as the Appendix, sets forth an agreed-upon summary of the facts and provides for remedial action by Kentucky Power in full settlement of this proceeding. In determining whether the terms of the Stipulation are in the public interest and are reasonable, the Commission has taken into consideration the circumstances surrounding the alleged violation and the terms of the Stipulation. 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.

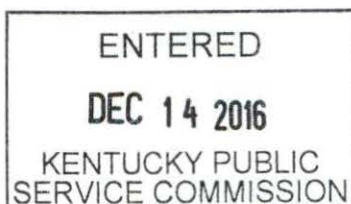
IT IS THEREFORE ORDERED that:

1. The Stipulation is adopted and approved in its entirety as a complete resolution of all issues in this case.
2. As a result of the July 12, 2014 incident, Kentucky Power agrees to pay a civil penalty, pursuant to KRS 278.990, in the amount of \$3,000.
3. Upon payment of \$3,000 by Kentucky Power, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

By the Commission

ATTEST:

  
Executive Director



APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2016-00279 DATED **DEC 14 2016**



Matthew G. Bevin  
Governor

Charles G. Snively  
Secretary  
Energy and Environment Cabinet

Commonwealth of Kentucky  
**Public Service Commission**  
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Michael J. Schmitt  
Chairman

Robert Cicero  
Vice Chairman

Daniel E. Logsdon Jr.  
Commissioner

November 10, 2016

Talina R. Mathews  
Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602

Re: Case No. 2016-00279  
Kentucky Power Company Alleged Failure to Comply with KRS 278.042

Dear Ms. Mathews:

Enclosed for filing is the Stipulation of Facts and Settlement Agreement entered into between Commission Staff and Kentucky Power Company. Please bring this document to the Commission's attention for its review and consideration.

Sincerely,

Jennifer L. Fell  
Staff Attorney

JLF/ph

cc: Parties of Record

## STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated August 9, 2016, the Commission initiated this proceeding to determine whether Kentucky Power Company ("Kentucky Power") should be subject to the penalties described in KRS 278.990 for allegedly violating KRS 278.042, through its failure to comply with the National Electrical Safety Code; failure to comply with its own system inspection plan; and failure to comply with 807 KAR 5:006, Section 26(4)(e), in connection with an accident on July 12, 2014 wherein Jason Michal Grace sustained personal injuries as a result of coming into contact with an energized triplex conductor that had been laying on the ground.

On August 26, 2016, Kentucky Power filed a response to the Commission's August 9, 2016 Order. Along with the response, Kentucky Power also filed a motion requesting an informal conference with Commission Staff to discuss the issues related to this matter. An informal conference was subsequently held at the Commission's offices on September 28, 2016. Discussions during the informal conference between Kentucky Power 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. Kentucky Power acknowledges that Mr. Grace came into contact with an energized service drop, one end of which was attached to a Kentucky Power pole while the other end was lying on the ground. Kentucky Power lacks knowledge when the service drop first came to the ground. The Company's 2012 and 2014 distribution system inspections did not identify the service drop as lying on the ground.

2. Kentucky Power has filed with the Commission remedial measures that have been taken and will be continued to ensure the accuracy of future inspections to prevent further similar incidents. These measures include the provision of an employee dedicated solely to inspections in Kentucky Power's Ashland District, and a smaller group of employees concentrating on inspections in its Pikeville and Hazard Districts. Kentucky Power's employees performing inspections have been instructed to inspect for instances where a meter has been removed and a service drop remains attached, and in such instances, the service drop is to be removed. Training and information sessions for all employees performing service work and inspecting distribution facilities have been conducted and documented for all Kentucky Power Districts, and Kentucky Power's training materials have been modified to emphasize the need to perform 360 degree visual inspections and inspect for vertical and horizontal conductor clearance issues. An online training program incorporating the modified training materials was instituted in 2016, and is required annually for all employees performing inspections.

3. Kentucky Power agrees to pay a civil penalty, pursuant to KRS 278.990, in the amount of \$3,000.00. The Commission's acceptance of this Stipulation will satisfy and resolve any and all claims against Kentucky Power for any violation of KRS Chapter 278 or for any penalty under KRS 278.990 arising out of the July 12, 2014 incident. The scope of this proceeding is limited by the Commission's August 9, 2016 Order as to whether Kentucky Power should be assessed penalties under KRS 278.990 for violations of KRS 278.042. The Commission's acceptance of this Stipulation shall not be construed as a finding of willful violation of any Commission statute or order.

4. In the event that the Commission does not accept this Stipulation in its entirety, Kentucky Power 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 thereto, used as an admission by Kentucky Power of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the August 9, 2016 Order, or otherwise used as an admission by either party.

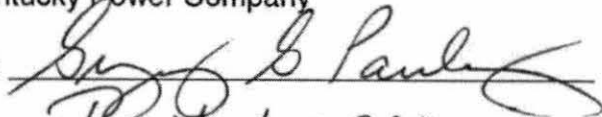
5. This Stipulation is for use only in Commission Case No. 2016-00279, and neither party hereto shall be bound by any part of this Stipulation in any other proceeding, except that this Stipulation may be used in any proceeding by the Commission to enforce the terms of this Stipulation or to conduct a further investigation of Kentucky Power's service, and Kentucky Power shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Stipulation.

6. Kentucky Power and Commission Staff agree that the foregoing Stipulation is reasonable for the purpose of resolving all issues in Commission Case No. 2016-00279, is in the public interest, and should be adopted in its entirety by the Commission. If so adopted by the Commission, Kentucky Power waives 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 10<sup>th</sup> day of November, 2016.

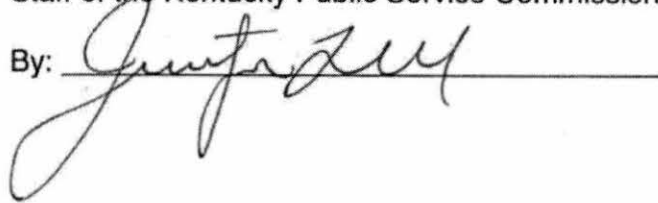


Kentucky Power Company

By: 

Title: President & COO

Staff of the Kentucky Public Service Commission

By: 

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