

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY UTILITIES COMPANY)	
_____)	
ALLEGED FAILURE TO COMPLY)	CASE NO. 2017-00094
WITH KRS 278.042)	

ORDER

By Order entered March 1, 2017, the Commission initiated this proceeding to determine whether Kentucky Utilities Company (“Kentucky Utilities”) should be subject to the penalties prescribed in KRS 278.990, for violating 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”). Under 807 KAR 5:041, Section 3(1), the Commission requires utilities to construct and maintain plants and facilities in accordance with engineering practices set forth in the NESC.

The violation giving rise to this case involves an incident occurring on November 21, 2016, when Marcus Hobbs, a member of the public, sustained physical injuries when he made contact with a 7.2-kilovolt (“KV”) primary line located on KU’s Evarts circuit 4475 in Evarts, Kentucky. At the time of the incident, Mr. Hobbs was transporting a mobile home. He climbed onto the roof of the mobile home to raise a service wire and system neutral to allow the mobile home to pass under the lines. When he raised the

service wire, it made contact with the system neutral, which in turn made contact with a 7.2-KV primary conductor, causing Mr. Hobbs to sustain unspecified burn injuries. The service wire and system neutral failed to meet the 2012 NESC vertical clearance requirement for distribution lines.

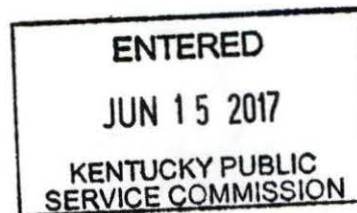
On March 21, 2017, KU filed a response to the Commission's March 1, 2017 initiating Order, addressing the various sections of the Staff Report and denying any willful violations of the 2012 NESC vertical clearance requirement for distribution lines. At Kentucky Utilities' request, an informal conference ("IC") was held with Commission Staff in this matter on May 18, 2017.

Discussions in the course of the IC 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 an offer by Kentucky Utilities to pay a civil penalty in the amount of \$2,500 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 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. The formal hearing in this matter scheduled for Wednesday, June 21, 2017, is cancelled.
3. As a result of the November 21, 2016 incident, Kentucky Utilities agrees to pay a civil penalty, pursuant to KRS 278.990, in the amount of \$2,500.
4. Kentucky Utilities shall pay the amount of \$2,500 within 30 days of the date of this Order by cashier's check or money order to be made payable to the Kentucky State Treasurer and to be mailed or delivered to the Public Service Commission, Office of General Counsel, 211 Sower Boulevard, P.O. Box 615, Frankfort, KY 40602.
5. Upon payment of \$2,500 by Kentucky Utilities, 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. 2017-00094 DATED **JUN 15 2017**

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In the Matter of:

KENTUCKY UTILITIES COMPANY)
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) CASE NO. 2017-00094
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 ALLEGED FAILURE TO COMPLY)
 WITH KRS 278.042)

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated March 1, 2017, the Commission initiated this proceeding to determine whether Kentucky Utilities Company ("KU") 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 and the most recent edition of the National Electrical Safety Code ("NESC"). The March 1, 2017 Order found that there was *prima facie* evidence that KU had violated a provision of the 2012 National Electric Safety Code ("NESC") regarding the vertical clearance for the service wire and the system neutral.¹

The violation giving rise to this case involves an incident occurring on November 21, 2016, when Marcus Hobbs, a public citizen, sustained physical injuries when he made contact with a 7.2 kilovolts ("KV") primary line located on KU's Evarts circuit 4475 in

¹ 2012 NESC, Part 2, Section 23, Rule 232(B)(1)

Evarts, Kentucky. According to the Staff Accident Investigation Report ("Staff Report"), Mr. Hobbs was in the process of transporting a mobile home when he climbed onto the roof of the mobile home, which was sitting on a trailer, in an attempt to raise the service wire and the system neutral in order to allow the mobile home to pass under the lines. When Mr. Hobbs raised the service wire, it made contact with the system neutral which in turn made contact with a 7.2 KV primary conductor. Mr. Hobbs sustained unspecified injuries as a result of the contact with the power line and was ultimately transported to the Joseph M. Still Burn Center in Augusta, Georgia.

On March 21, 2017, KU filed a response to the Commission's March 1, 2017 Initiating Order addressing the various sections of the Staff Report and denying any willful violations of the 2012 NESC vertical clearance requirement for distribution lines. As part of its response, KU requested that an informal conference be scheduled for the purposes of discussing settlement and clarifying the issues in this proceeding.

On May 18, 2017, an informal conference was held at the Commission's offices to discuss the issues in the case. As a result of the discussions at the informal conference, KU and Commission Staff were able to reach an agreement in principle.

1. KU agrees that the Staff Incident Investigation Report, attached as an Appendix to the Commission's March 1, 2017 Initiating Order in this case, accurately describes and sets forth the facts and circumstances surrounding the incident giving rise to the Order.
2. As a result of the November 21, 2016 incident, KU agrees to pay a civil penalty, pursuant to KRS 278.990, in the amount of \$2,500. The Commission's acceptance of this Stipulation will satisfy and resolve any and all claims against

KU for any violation of KRS Chapter 278 or for any penalty under KRS 278.990 arising out of the November 21, 2016 incident.

5. This Stipulation is not an admission by KU that it willfully violated KRS 278.042 or any other provision of KRS Chapter 278. The Commission's acceptance of this Stipulation shall not be construed as a finding that KU willfully violated any statute.

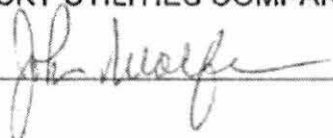
6. In the event the Commission does not accept this Stipulation in its entirety, KU reserves its right to withdraw therefrom and require that a hearing be held on any and all issues herein, and that none of the provisions contained herein shall be binding upon the parties thereto, used as an admission by KU of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the Staff Report, or otherwise use as an admission by either party.

7. This Stipulation is for use in Commission Case No. 2017-00094. None of the provisions in this Stipulation establishes any precedent for any other case. Neither KU nor Commission Staff 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 KU's service, and KU shall not be precluded or estopped from raising any issue, claim, or defense, therein by reason of the execution of this Stipulation.

9. KU 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 adopted by the Commission, KU waives its right to a hearing in this matter and will not file any petition for rehearing or seek judicial review.

KENTUCKY UTILITIES COMPANY

By 

Title Vice President Electric Distribution

Date June 13, 2017

STAFF OF THE PUBLIC SERVICE COMMISSION

By 

Title Staff Attorney

Date June 13, 2017

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