

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

OWEN ELECTRIC COOPERATIVE, INC.)
_____)
ALLEGED FAILURE TO COMPLY)
WITH KRS 278.042) CASE NO. 2017-00121

ORDER

By Order entered March 21, 2017, the Commission initiated this proceeding to determine whether Owen Electric Cooperative, Inc. (“Owen Electric”) 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”).

The violation giving rise to this case involves an incident occurring on January 20, 2017, when Brian Noel, an Owen Electric employee working as part of a two-person crew, sustained physical injuries while attempting to clear several trees that had fallen onto a primary conductor located at Lower River Road in Burlington, Kentucky. The Owen Electric crew failed to conduct a job briefing prior to engaging in the job of clearing the trees from the power line, in violation of the relevant provision contained in the 2012 NESC and as set forth in Owen Electric’s Safety Manual.

On April 7, 2017, Owen Electric filed a response to the Commission's March 21, 2017 initiating Order acknowledging the alleged violations of the NESC and the Owen Electric Safety Manual. Owen Electric also identified numerous remedial steps it took in the wake of this incident, including conducting meetings with field personnel in the days immediately after the incident to discuss the incident, revising certain components of the Owen Electric Safety Manual related to tree trimming, and enhancing the job briefing form. At Owen Electric's request, an informal conference ("IC") was held with Commission Staff in this matter on May 5, 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 provides for remedial action by Owen Electric 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 violations 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 Thursday, July 6, 2017, is cancelled.

3. As a result of the January 20, 2017 incident, Owen Electric agrees to pay a civil penalty, pursuant to KRS 278.990, in the amount of \$2,500.

4. Owen Electric 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 Owen Electric, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

By the Commission

ENTERED
JUN 19 2017
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2017-00121 DATED **JUN 19 2017**

On April 7, 2017, Owen Electric filed a response to the Commission's March 21, 2017 Initiating Order acknowledging the alleged violations of the NESC and the Owen Electric Safety Manual. Owen Electric also informed that it had taken numerous remedial steps in the wake of this incident, including conducting meetings with field personnel in the days immediately after the incident to discuss the incident, revising certain components of the Owen Electric Safety Manual related to tree trimming, and enhancing the job briefing form. In its response, Owen Electric also requested that an informal conference be scheduled to allow for a discussion of the matter.

On May 17, 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, Owen Electric and Commission Staff were able to reach an agreement in principle.

1. Owen Electric is a consumer-owned rural electric cooperative corporation engaged in the distribution and sale of electric energy to the public for compensation and is a utility subject to the Commission's jurisdiction.
2. On January 20, 2017, two Owen Electric service technicians, including Mr. Noel, were responding to an outage on Lower River Road in Burlington, Kentucky. Mr. Noel sustained physical injuries while attempting to clear several trees that had fallen on a single-phase power line.
3. As a direct result of the January 20, 2017 incident, Owen Electric has held several safety meetings, both internally and externally, to discuss and analyze the incident and ultimately made the decision to revise the Owen Electric Safety Manual to include the following provision:

Section 7 TREE TRIMMING

701 General

...

- b) When the complexity of the line clearance potentially exceeds the employee's abilities or equipment abilities, the Owen Electric line clearance/right of way contractor shall be called in to conduct the line clearance.
- c) When attempting to pull a limb 4" in diameter or larger from lines or equipment, that can be reached by hand from ground level, there shall be a length of rope attached to use for the pulling and removal, so the employee can maintain a safe distance.

...

705 Powered Trimming Equipment

...

- b) When operating chainsaws during line clearance operations, another employee trained in first aid and CPR shall be present.

4. As a direct result of the January 20, 2017 incident, Owen Electric revised its job briefing form to include the acronym SAFER, which represents Safety, Attitude, Focus, Expectations, and Resources, to reinforce the importance of assessing the job and its risks prior to beginning work on the job.

5. As a result of the January 20, 2017 incident, Owen Electric 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 Owen Electric for any violation of KRS Chapter 278 or for any penalty under KRS 278.990 arising out of the January 20, 2017 incident.

6. This Stipulation is not an admission by Owen Electric 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 Owen Electric willfully violated any statute.

7. In the event the Commission does not accept this Stipulation in its entirety, Owen Electric reserves the 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 used as an admission by Owen Electric of any liability in any legal proceeding or lawsuit arising out of the facts set forth in this Stipulation.

8. This Stipulation is for use in Case No. 2017-00121. None of its provisions establishes any precedent for any other case. Neither Owen Electric nor Commission Staff shall be bound by any part of this Stipulation in any other proceeding, except that it may be used in any proceeding by the Commission to investigate or enforce the terms of this Stipulation. Owen Electric shall not be precluded or estopped from raising any issue, claim, or defense, therein by reason of the execution of this Stipulation.

9. If the Commission accepts and adopts this Stipulation, Owen Electric's failure to comply with Paragraph 4 of this Stipulation will constitute failure to comply with a Commission Order and may be subject to civil penalties under KRS 278.990(1) for its failure.

10. Owen Electric 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, Owen Electric waives its right to a hearing in this matter and will not petition for rehearing or bring an action for review in Franklin Circuit Court.

OWEN ELECTRIC COOPERATIVE, INC.

By James M. Gannon

Title attorney

Date 6/7/17

STAFF OF THE PUBLIC SERVICE COMMISSION

By [Signature]

Title Staff Attorney

Date June 12, 2017

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