

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY UTILITIES COMPANY)
_____) CASE NO. 2006-00354
)
ALLEGED FAILURE TO COMPLY WITH)
KRS 278.042)

O R D E R

By Order dated September 29, 2006, the Commission directed Kentucky Utilities Company ("KU") to appear at a hearing on November 16, 2006 to show cause why it should not be subject to the penalties provided under KRS 278.990 for one probable violation 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, which is the 2002 Edition ("NESC")*. More specifically, the probable violation is of NESC Section 27, Rule 279.A.2, which requires ungrounded guys to be insulated if attached to a supporting structure carrying any supply conductor of more than 300 volts or if vulnerable to accidental energizing by such conductors due to a slack conductor or guy.

The alleged violation arose from an accident which occurred on June 15, 2006, when a temporary resident of Clear Creek Baptist Bible College in Pineville, Kentucky was standing next to a 3-phase bank pole when he grabbed the left side guy wire with his right hand. He started shaking the guy wire, which was slack, and he came in

contact with a 7,200-volt riser. He sustained a shock and burns on his right hand and both feet, and he was hospitalized.

KU filed an answer to the show cause Order and requested an informal conference, which was held at the Commission's offices on November 1, 2006. Those discussions led to the filing of a Stipulation of Facts and Settlement Agreement ("Stipulation") on November 22, 2006. The Stipulation, attached hereto as Appendix A and incorporated herein by reference, sets forth KU's agreement with the statement of facts contained in the Staff's Incident Investigation Report, which was appended to the Commission's September 29, 2006 Order. The Stipulation also discusses the remedial action to be taken by KU, and provides that KU will pay a civil penalty in the amount of \$1,500 in full satisfaction of the one probable violation.

Determining whether the terms of the Stipulation are in the public interest and are reasonable, the Commission has taken into consideration the comprehensive nature of the Stipulation and KU's willingness to re-emphasize the safety aspect of guy wire inspections and cooperate to achieve a resolution of this proceeding. 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.

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2006-00354 DATED DECEMBER 20, 2006

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

KENTUCKY UTILITIES COMPANY)
_____) CASE NO. 2006-00354
)
ALLEGED FAILURE TO COMPLY)
WITH KRS 278.042)

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order of September 29, 2006, the Commission initiated this proceeding to determine whether Kentucky Utilities Company ("KU") should be subject to the penalties prescribed in KRS 278.990 for one probable violation 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, which is the 2002 Edition ("NESC"). The one probable violation cited by the Commission's September 29, 2006 Order is NESC Section 27, Rule 279.A.2, which requires ungrounded guys to be insulated if attached to a supporting structure carrying any supply conductor of more than 300 volts or if vulnerable to accidental energizing by such conductors due to a slack conductor or guy.

The Commission's Order arose out of an incident which occurred on June 15, 2006, when a temporary resident of Clear Creek Baptist Bible College in Pineville, Kentucky was standing next to a 3-phase bank pole when he grabbed the left side guy wire with his right hand. He started shaking the guy wire, which was slack, and it came

in contact with a 7,200-volt riser. He sustained a shock and burns on his right hand and both feet, and he was hospitalized.

On October 19, 2006, KU filed a response to the Commission's September 29, 2006 Order. KU's response denied the NESC violation cited by the Commission. In response to KU's request for an informal conference, the Commission suspended the hearing that had been set for November 16, 2006, and scheduled an informal conference on November 1, 2006.

As a result of discussions held during the informal conference, KU and the Commission Staff submit the following Stipulation of Facts and Settlement Agreement ("Stipulation") for the Commission's consideration in rendering its decision in this proceeding:

1. KU agrees that the Staff's Incident Investigation Report ("Report"), Appendix A to the Commission's September 29, 2006 Order in this case, accurately describes and sets forth the material facts and circumstances surrounding the incident giving rise to the Order.

2. KU agrees to advise all field personnel to check for similar situations where a guy wire is neither insulated nor grounded. The inspection of guy wires will be incorporated into KU's upcoming safety program for employees and will also be re-emphasized in KU's two-year facility inspections beginning January 1, 2007. In addition, any guy wire found to not have an insulator and not be grounded will be identified as a high-priority repair and will be rebuilt to be (a) insulated, (b) grounded, or (c) insulated and grounded, as appropriate given the construction of the facilities to which the guy wire is attached. During the upcoming two-year inspection cycle,

inspectors will examine distribution installations without a visible insulator to confirm that NESC-compliant grounding is in place.

3. KU agrees to pay a civil penalty in the amount of \$1,500 in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's September 29, 2006 Order to whether KU should be assessed a penalty under KRS 278.990 for a willful violation of the NESC rules, as made applicable under KRS 278.042. Neither the payment of the civil penalty, nor any other agreement contained in this Stipulation, shall be construed as an admission by KU of a willful violation of any Commission regulation or NESC rule, nor shall it be construed as an admission by KU of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the Report, nor shall the Commission's acceptance of this Stipulation be construed as a finding of a willful violation of any Commission regulation or NESC rule.

4. In the event that the Commission does not accept this Stipulation in its entirety, KU and 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 hereto, used as an admission by KU of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the Report, or otherwise used as an admission by either party hereto.

5. This Stipulation is for use in Commission Case No. 2006-00354, 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 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.

6. KU and Staff agree that the foregoing Stipulation is reasonable, is in the public interest, and should be adopted in its entirety by the Commission. If so adopted by the Commission, KU agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

Dated this 21st day of November, 2006.

KENTUCKY UTILITIES COMPANY

BY 
Title SENIOR CORPORATE ATTORNEY

STAFF OF THE KENTUCKY PUBLIC SERVICE COMMISSION

BY 
Richard G. Raff, Staff Attorney

2. KU shall pay \$1,500 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, Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

3. Upon payment of the \$1,500 civil penalty, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

Done at Frankfort, Kentucky, this 20th day of December, 2006.

By the Commission

ATTEST:



Executive Director