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November 17, 2006


Ms. Beth O'Donnell  
Executive Director  
Public Service Commission  
Post Office Box 615  
Frankfort, KY 40602

Re: Owen Electric Cooperative, Inc.  
Case No. 2006-00361

Dear Ms. O'Donnell:

Attached hereto is the Stipulation of Facts and Settlement Agreement entered into by Owen Electric and Staff. Please bring this document to the Commission's attention for its review and consideration.

Sincerely,

  
Richard G. Raff  
Staff Attorney

RGR:ew  
Enclosure

cc: James M. Crawford  
Robert M. Marshall

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

OWEN ELECTRIC COOPERATIVE, INC.            )  
\_\_\_\_\_    )  
  )  
ALLEGED FAILURE TO COMPLY                )  
WITH KRS 278.042 AND 807 KAR 5:006,    )  
SECTION 24                                     )

CASE NO. 2006-00361

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order of September 28, 2006, 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 three probable 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 Electrical Safety Code, which is the 2002 Edition ("NESC"), and one probable violation of 807 KAR 5:006, Section 24, which requires a utility to adopt and execute a safety program, including the establishment of a safety manual with written guidelines for safe working practices and procedures to be followed by utility employees. The three probable violations of the NESC cited by the Commission's September 28, 2006 Order are as follows:

1. NESC, Section 42, Rule 420.C.4, by the employees' failure while working in the vicinity of energized lines to consider all the effects of their actions and to take into account their own safety, the safety of other employees, the property of others, and the public in general;

2. NESC, Section 42, Rule 420.D, by the employees' failure to consider electric supply lines to be energized, unless they are positively known to be de-energized, by failing to perform preliminary tests to determine existing conditions, and by failing to know the operating voltages of lines before working on or in the vicinity of energized parts; and

3. NESC, Section 42, Rule 422.C.5, by the employees' failure, while working on or in the vicinity of equipment or lines exposed to voltages higher than those guarded against by the safety appliances provided, to take steps to be assured that the equipment or lines on which the employees are working are free from dangerous leakage or induction or have been effectively grounded;

The one probable violation of Owen Electric's Safety Manual is as follows:

(a) Sections 601(b), by the failure to have at least two employees present when the work to be performed includes any of the following: the installation, repair, or removal of de-energized lines if an employee is exposed to contact with other parts energized at more than 600 volts; the installation, repair, or removal of lines energized at more than 600 volts; or the installation, repair, or removal of equipment such as transformers, capacitors, and regulators, if an employee is exposed to contact with parts energized at more than 600 volts.

The Commission's Order arose out of an incident which occurred on June 16, 2006 when an Owen Electric employee was replacing a damaged lightning arrestor on a pole at 8344 Pleasant Valley Road in Florence, Kentucky. The employee opened the cutout and removed the primary jumper from the transformer, but he was unaware that there was a parallel connected transformer one pole away that was backfeeding energy through the secondary conductors. An electric arc occurred and the employee sustained burns to both hands and right arm. He was hospitalized for those injuries.

On October 13, 2006, Owen Electric filed a response to the Commission's September 28, 2006 Order. Owen Electric's response denied one of the NESC

violations and the Safety Manual violation cited by the Commission. Owen Electric admitted the other two NESC violations, which are NESC Section 42, Rules 420.D and 422.C.5. In response to Owen Electric's request for an informal conference, the Commission suspended the hearing that had been set for November 17, 2006 and scheduled an informal conference on October 31, 2006.

As a result of discussions held during the informal conference, Owen Electric 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. Owen Electric agrees that the Staff's Incident Investigation Report ("Report"), Appendix A to the Commission's September 28, 2006 Order in this case, accurately describes and sets forth the material facts and circumstances surrounding the incident giving rise to the Order.

2. Owen Electric agrees to conduct a safety program for its own employees and contractor employees on the precautions that need to be taken when working on transformers to determine whether a backfeed situation exists. Owen Electric also agrees to conduct safety audits at least monthly of its own work crews and those of its contractors. One Owen Electric employee will be assigned responsibility for ensuring that the safety audits are performed and that records of the audits are maintained.

3. Owen Electric agrees to pay a civil penalty in the amount of \$4,500 in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's September 28, 2006 Order to whether Owen Electric should be assessed penalties under KRS 278.990 for willful violations of the NESC rules, as made

applicable under KRS 278.042, and Owen Electric's Safety Manual, as made applicable under 807 KAR 5:006, Section 24. Neither the payment of the civil penalty, nor any other agreement contained in this Stipulation, shall be construed as an admission by Owen Electric of a willful violation of any Commission regulation or NESC rule, nor shall it be construed as an admission by Owen Electric 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.

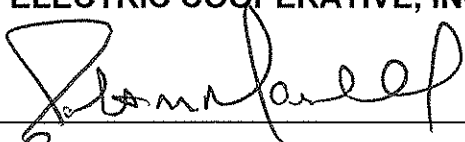
4. In the event that the Commission does not accept this Stipulation in its entirety, Owen Electric and Staff reserve their rights to withdraw therefrom and require that a hearing be held on any and all issues involved herein, and that none of the provisions contained herein shall be binding upon the parties hereto, used as an admission by Owen Electric 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. 2006-00361, 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 Owen Electric's service, and Owen Electric shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Stipulation.

6. Owen Electric 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, Owen Electric agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

Dated this 13 day of November, 2006.

**OWEN ELECTRIC COOPERATIVE, INC.**

BY   
Title PRESIDENT / CEO

**STAFF OF THE KENTUCKY PUBLIC SERVICE COMMISSION**

BY   
Richard G. Raf, Staff Attorney