

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GRAYSON RURAL ELECTRIC COOPERATIVE) CASE NO.
CORPORATION ALLEGED FAILURE TO) 2011-00407
COMPLY WITH KRS 278.020)

O R D E R

By Order dated October 21, 2011, the Commission directed Grayson Rural Electric Cooperative Corporation ("Grayson") to appear at a hearing on January 18, 2012 to show cause why it should not be subject to the penalties provided under KRS 278.990 for allegedly violating KRS 278.020 by beginning construction on five projects contained in its 2009-2012 Construction Work Plan ("CWP") and for upgrading its Turtle 1 meter system to a Turtle 2 system without first obtaining a Certificate of Public Convenience and Necessity ("CPCN").

Grayson filed an answer to the show cause Order and requested an informal conference, which was held at the Commission's offices on November 29, 2011. Those discussions led to the filing of a Stipulation of Facts and Settlement Agreement ("Stipulation") on February 16, 2012. The Stipulation, attached hereto as an Appendix and incorporated herein by reference, sets forth Grayson's acknowledgment that a CPCN should have been obtained, but was not, before beginning construction of any of the projects contained in its 2009-2012 CWP. The Stipulation also discusses the remedial actions to be taken by Grayson to develop and implement internal procedures to ensure that future construction work plans will be filed with the Commission in a

timely manner, and provides that Grayson will pay a civil penalty in the amount of \$1,250.00 in full satisfaction of the alleged statutory violation. Concerning Grayson's developing and implementing internal work processes and protocols to ensure timely filing of future construction work plans, those internal workflows should include, at a minimum, the establishment of a detailed checklist for preparing and seeking Commission approval of construction work plans, as well as detailed timelines indicating the steps that Grayson will have to undertake in preparing and developing its CWP, submission of the CWP for approval by Grayson's board, submission for approval by the Rural Utilities Service, and submission of the CWP for Commission approval.

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 Grayson's cooperation in achieving full 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.

2. Grayson shall pay \$1,250.00 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, P. O. Box 615, Frankfort, Kentucky 40602.

3. Within 30 days of the date of this Order, Grayson shall file with the Commission its internal procedures and protocols to ensure that future construction work plans will be filed with the Commission in a timely manner.

4. Upon payment of the \$1,250.00 civil penalty and the filing of the internal procedures and protocols referenced in the ordering paragraph above, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

By the Commission

ENTERED *MA*
APR 24 2012
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2011-00407

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2011-00407 DATED APR 24 2012

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated October 21, 2011, the Commission initiated this proceeding to determine whether Grayson Rural Electric Cooperative Corporation ("Grayson") should be subject to the penalties prescribed in KRS 278.990 for allegedly violating KRS 278.020 by beginning construction on some of the projects contained in its 2009–2012 Construction Work Plan ("CWP") without first obtaining a Certificate of Public Convenience and Necessity ("CPCN").

On November 9, 2011, Grayson filed a response to the Commission's October 17, 2011 Order. On November 7, 2011, Grayson 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 November 29, 2011. Discussions during the informal conference between Grayson 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. Grayson acknowledges that a CPCN should have been obtained, but was not, before beginning construction of any of the projects contained in its 2009–2012 CWP.

2. Grayson agrees to develop internal procedures to ensure that future construction work plans will be filed with the Commission in a timely manner. These procedures will include the establishment of a detailed checklist for preparing and seeking approval of construction work plans as well as a detailed timeline indicating generally the steps that Grayson will have to undertake in preparing and developing its

construction work plan, submission of the construction work plan for the approval of Grayson's board of directors, submission of the construction work plan for approval by the Rural Utilities Service, and submission of the construction work plan for approval by the Commission.

3. Grayson agrees to pay the amount of \$1,250.00 in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's October 21, 2011 Order as to whether Grayson should be assessed penalties under KRS 278.990 for willful violations of KRS 278.020. The Commission's acceptance of this Stipulation shall not be construed as a finding of a willful violation of any Commission statute or order.

4. In the event that the Commission does not accept this Stipulation in its entirety, Grayson 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 Grayson of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the October 21, 2011 Order, or otherwise used as an admission by either party.

5. This Stipulation is for use only in Commission Case No. 2011-00407, 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 Grayson's service, and Grayson shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Stipulation.

6. Grayson and Commission Staff agree that the foregoing Stipulation is reasonable for the purpose of resolving all issues in Commission Case No. 2011-00407, is in the public interest, and should be adopted in its entirety by the Commission. If so adopted by the Commission, Grayson agrees to waive 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 31st day of January, 2012.

Grayson Rural Electric Cooperative Corporation

By

Title

W. Andrew Scott
Gen. Counsel G.R.E.C.C.

Staff of the Kentucky Public Service Commission

By

Quang D. Nguyen 2/3/12
Quang Nguyen, Counsel for the Staff

Carol Ann Fraley
President & CEO
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