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**David L. Armstrong**  
Chairman

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Vice Chairman

**Linda Breathitt**  
Commissioner

July 28, 2014

## PARTIES OF RECORD

Re: Case No. 2014-00165  
Duke Energy Kentucky, Inc. Alleged Failure to Comply with KRS 278.042

Attached is a copy of the memorandum which is being filed in the record of the above-referenced case. If you have any comments you would like to make regarding the contents of the informal conference memorandum, please do so within five days of receipt of this letter. If you have any questions, please contact Staff Attorney Aaron Ann Cole at 502-782-2591.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Derouen".

Jeff Derouen  
Executive Director

Attachment

**INTRA-AGENCY MEMORANDUM**  
**KENTUCKY PUBLIC SERVICE COMMISSION**

**TO:** Case File No. 2014-00165

**FROM:** Aaron Ann Cole, Staff Attorney

**DATE:** July 28, 2014

**RE:** Duke Energy Kentucky, Inc. Alleged Failure to Comply with KRS 278.042

Pursuant to Duke Energy Kentucky, Inc.'s ("Duke Energy") request in its June 16, 2014 Response to the Commission's Show Cause Order and the Commission's June 26, 2014 Order, an Informal Conference ("IC") was held on July 16, 2014. This IC was held for the purpose of discussing settlement and expediting resolution of this proceeding. A list of the attendees is attached hereto.

Duke Energy representatives began by discussing the three areas of alleged violations: (1) failure to observe proper safety procedures on the job site to ensure the safety of all individuals involved, specifically, whether a job briefing should have been conducted before Duke Energy's crew began assessing the transmission circuit; (2) failure to wear proper personal protective equipment ("PPE") and suitable flame resistance clothing; and (3) failure to observe the required minimum approach distance ("MAD") to energized lines or parts.

Duke Energy representatives described the company's practices regarding the timing of filling out job briefing forms and the general content of these forms. They asserted that the work crew involved in the instant incident was in "assessment mode" and therefore a verbal briefing discussing potential hazards was held before the crew began patrolling the locked-out transmission circuit, but that a documented job briefing was not been required until restoration work began. In response to Commission Staff questions, Duke Energy personnel admitted that the distinction between "assessment mode" and "restoration work" is not explicitly documented in Duke Energy's safety manual, nor is its practice of having verbal hazard discussions instead of documented job briefings.

Duke Energy staff admitted that the victim in this case, Lawrence "Kevin" Dudley, was wearing an undershirt that did not comply with its PPE policy and that none of the work crew was wearing dielectric footwear. They also explained that the corporation is in the process of amending its PPE policy to require its employees to wear EH-rated boots with a composite toe, a substantial heel, and ankle protection instead of slip-on dielectric footwear. Duke Energy employees will be provided with an allowance every two years to replace their boots, if needed, and will initially be given two pairs of these boots.

Duke Energy representatives agreed to modify its Work Standards Manual and its Health and Safety Handbook to clarify when a crew shall hold a verbal assessment of potential hazards on a job site, when a documented job briefing should be given and distinguishing between when a crew is in "assessment mode" and "restoration mode" and will amend its PPE policy to require its employees to wear EH-rated boots with a composite toe, a substantial heel, and ankle protection instead of slip-on dielectric footwear. Duke Energy personnel also agreed to send documentation of the changes by October 2014 or as soon as available and, as necessary, to provide interim status updates to the Commission regarding the timeline in which the new language will be implemented in both the Work Standards Manual and the Health and Safety Handbook.<sup>1</sup>

Finally, Duke Energy personnel addressed Mr. Dudley's alleged violation of MAD requirements. Counsel for Duke Energy, Mr. D'Ascenzio, contended that Mr. Dudley did not willfully violate MAD, but instead slipped and fell into the line. Duke Energy representatives noted that in their investigation they never determined a need for Mr. Dudley to go underneath the line or within the vicinity of the line itself, which formed the basis for their belief that Mr. Dudley slipped into the line. However, there were no witnesses to this incident, and Mr. Dudley has no recollection of the time surrounding his contact with the line.

Duke Energy personnel also noted that neither Mr. Dudley nor the crew has been disciplined for these alleged violations. They noted that Mr. Dudley has fully recovered from his injuries and has resumed his full duties.

After further discussion, an agreement in principle was reached between Duke Energy representatives and Commission Staff to enter into a stipulation of facts and settlement in an effort to resolve all issues in the case. Duke Energy agreed to pay a monetary penalty in the amount of \$7,500, as long as there is not an admission of a willful violation or civil liability, and to modify its Work Standards Manual and its Health and Safety Handbook to clarify when a crew shall hold a verbal assessment of potential hazards on a job site, when a documented job briefing should be given and distinguishing between when a crew is in "assessment mode" and "restoration mode" and to amend its PPE policy to require its employees to wear EH-rated boots with a composite toe, a substantial heel, and ankle protection instead of slip-on dielectric footwear. Duke Energy personnel also agreed to send documentation of the changes by October 2014 or as soon as available and, as necessary, to provide interim status updates to the Commission regarding the timeline in which the new language will be implemented in both the Work Standards Manual and the Health and Safety Handbook. Duke Energy staff also stated they would submit sign-in sheets and documentation, if any, to meetings in which this incident was reviewed with Kentucky Duke Energy employees.

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<sup>1</sup> Currently, Duke Energy utilizes its Safe Work Practices manual as its safety manual. The Health and Safety Handbook will replace the Safe Work Practices manual. The Health and Safety Handbook will contain revised language clarifying the job briefing protocol as well as new PPE standards.

There being no further discussions, the IC was adjourned.

Attachment

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DUKE ENERGY KENTUCKY, INC.

ALLEGED FAILURE TO COMPLY WITH  
KRS 278.042

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CASE NO.  
2014-00165

July 16, 2014

Please sign in:

NAME

REPRESENTING

Jonathan Beyer

PSC

Scott Morris

PSC

STEVE KINGSOLVER

PSC

JEFF DIERKER

Duke Energy

JEN TOEBBE

Duke Energy

ROCCO D'ASCENZO

Duke Energy

Kristen Ryan

Duke Energy

Kyle Willard

PSC- Engineering

JAMES RICE

" "

Aaron Ann Cole

PSC legal