

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DUKE ENERGY KENTUCKY, INC.)
_____)
) CASE NO. 2016-00349
ALLEGED FAILURE TO COMPLY)
WITH KRS 278.042)

ORDER

By Order entered October 11, 2016, the Commission initiated this proceeding to determine whether Duke Energy Kentucky, Inc. (“Duke Kentucky”) 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 violations giving rise to this case involve an incident occurring on April 3, 2015, during which two Duke Kentucky transmission electricians, Senior Maintenance Electrician Nathan Trapp (“Trapp”) and Maintenance Electrician Kyle Leininger (“Leininger”) (jointly, “Transmission Electricians”), attempted to remove a fiberboard barrier from an energized Circuit 44 switchgear cubicle in order to use this part to replace a burned fiberboard barrier in the de-energized and grounded Circuit 45 switchgear cubicle they were tasked to repair. The Transmission Electricians incorrectly assumed the Circuit 44 switchgear was de-energized and failed to isolate, test for voltage and

ground Circuit 44. When Trapp reached inside the Circuit 44 switchgear cubicle, an arc occurred, resulting in burn injuries to both Transmission Electricians.

On October 31, 2016, Duke Kentucky filed a response to the October 11, 2016 Order, in which it admitted that the incident occurred as alleged and that its employees failed to comply with applicable safety standards, but denying that Duke Kentucky committed any willful violations of KRS 278.042, the NESC, or the Duke Kentucky Safety Manual. At Duke Kentucky's request, an informal conference ("IC") was conducted with Commission Staff in this matter on November 15, 2016. Post conference, at Commission Staff's request, Duke Kentucky filed into the record a summary of the remedial actions it took as a result of the April 3, 2015 incident that is the subject of this case. Duke Kentucky performed a root cause analysis to identify the safety violations involved in this incident and to implement future corrective actions. Duke Kentucky has implemented two programs, the Duke Energy Operational Excellence Framework and the Cardinal Electric Safety Rules, to ensure compliance with the company's safety rules, Commission regulations and the NESC. An additional measure has been taken to track the percentage of time supervisors are in the field on a monthly basis, setting 75 percent as the target. As part of Duke Kentucky's "Human Performance" tools, a two-minute drill is now used as a means to revisit and adjust job plans when the scope of a job has changed. As part of Duke Kentucky's "Work Method" development and training, Human Performance tools are included with the implementation of each work method and reviewed in training for front-line teams.

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 Duke Kentucky 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. As a result of the April 3, 2015 incident, Duke Kentucky agrees to pay a civil penalty, pursuant to KRS 278.990, in the amount of \$25,000.
3. Duke Kentucky shall pay the amount of \$25,000 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.
4. Upon payment of \$25,000 by Duke Kentucky, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

By the Commission

ENTERED
JAN 11 2017
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2016-00349 DATED **JAN 11 2017**

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated October 11, 2016, the Commission initiated this proceeding to determine whether Duke Energy Kentucky, Inc. ("Duke Kentucky") should be subject to the penalties described in KRS 278.990 for allegedly violating KRS 278.042, through its failure to comply with the National Electrical Safety Code ("NESC") and failure to comply with its own safety manual, in connection with an accident on April 3, 2015 wherein two Duke Kentucky transmission electricians, Nathan Trapp ("Trapp") and Kyle Leininger ("Leininger"), sustained burn injuries while performing repairs on a four-cubicle 13.2 kiloVolt switchgear.

On October 31, 2016, Duke Kentucky filed a response to the Commission's October 11, 2016 Order. Along with the response, Duke Kentucky also 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 15, 2016. Discussions during the informal conference between Duke Kentucky 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. Duke Kentucky acknowledges that the Duke Kentucky transmission electricians attempted to remove a fiberboard barrier from the energized Circuit 44 switchgear cubicle in order to use this part to replace a burned fiberboard barrier in the de-energized and grounded Circuit 45 switchgear cubicle they were tasked to repair. Duke Kentucky further acknowledges that the transmission electricians incorrectly assumed the Circuit 44 switchgear was de-energized and failed to isolate, test for

voltage and ground Circuit 44. When Trapp reached inside the Circuit 44 switchgear cubicle, an arc occurred, resulting in burn injuries to both Trapp and Leininger.

2. Duke Kentucky has filed with the Commission remedial measures that have been taken to ensure continued compliance with its safety program to prevent further similar incidents. Duke Kentucky performed a root cause analysis to properly identify the safety violations involved in this incident and implement corrective actions going forward. Duke Kentucky has implemented two programs, the Duke Energy Operational Excellence Framework and Cardinal Electric Safety Rules, to ensure compliance with the company's safety rules, Commission regulations and the NESC. An additional monthly measure has been taken to track the percentage of time supervisors are in the field, setting 75 percent as the target. As part of its Human Performance tools, a two-minute drill is now used as a means to revisit and adjust job plans when the scope of a job has changed. As part of its Work Method development and training, Human Performance tools are included with the implementation of each work method and reviewed in training for front-line teams.

3. Duke Kentucky agrees to pay a civil penalty, pursuant to KRS 278.990, in the amount of \$25,000.00. The Commission's acceptance of this Stipulation will satisfy and resolve any and all claims against Duke Kentucky for any violation of KRS Chapter 278 or for any penalty under KRS 278.990 arising out of the April 3, 2015 incident. The scope of this proceeding is limited by the Commission's October 10, 2016 Order as to whether Duke Kentucky should be assessed penalties under KRS 278.990 for violations of KRS 278.042. The Commission's acceptance of this Stipulation shall not be construed as a finding of willful violation of any Commission statute or order.

4. In the event that the Commission does not accept this Stipulation in its entirety, Duke Kentucky 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 Duke Kentucky of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the October 10, 2016 Order, or otherwise used as an admission by either party.

5. This Stipulation is for use only in Commission Case No. 2016-00349, 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 Duke Kentucky's service or safety practices, and Duke Kentucky shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Stipulation.

6. Duke Kentucky and Commission Staff agree that the foregoing Stipulation is reasonable for the purpose of resolving all issues in Commission Case No. 2016-00349, is in the public interest, and should be adopted in its entirety by the Commission. If so adopted by the Commission, Duke Kentucky waives its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

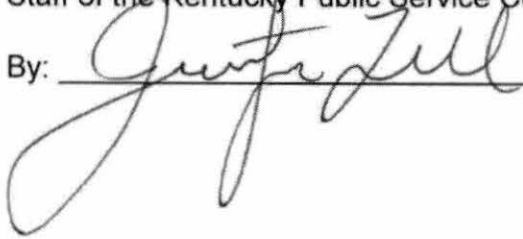
IN WITNESS WHEREOF, the parties hereto have hereunto affixed their signatures this 3rd day of January, 2016⁷.

Duke Energy Kentucky, Inc.

By:  _____

Title: Associate General Counsel

Staff of the Kentucky Public Service Commission

By:  _____

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