

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EAST KENTUCKY POWER
COOPERATIVE, INC.

ALLEGED FAILURE TO COMPLY
WITH KRS 278.042

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CASE NO. 2017-00084

ORDER

By Order dated March 8, 2017, the Commission initiated this proceeding to determine whether East Kentucky Power Cooperative, Inc. ("EKPC") should be subject to the penalties described in KRS 278.990 for allegedly 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.

The incident giving rise to this case is an accident that occurred on April 7, 2016, when Dustin Cody Kidd, EKPC line technician, was injured while attempting to repair a utility pole damaged by a fallen tree, which had been cut by EKPC's contractor, Asplundh Tree Company. Mr. Kidd was part of an EKPC crew that was attempting to lower the phase conductor to the ground instead of cutting the fallen tree off the line. Mr. Kidd sustained significant facial and wrist fractures when the block and hook, which were being

used to lower the conductor in an attempt to remove the fallen tree off the utility line, came loose and struck Mr. Kidd in his face and wrist.

On March 27, 2017, EKPC filed a response to the Commission's March 8, 2017 Order. At EKPC's request, an informal conference ("IC") was held with Commission Staff ("Staff") on May 3, 2017. In response to a request that Staff made at the IC, EKPC on May 9, 2017, filed into the record documentation of the remedial measures it has implemented to prevent incidents similar to the accident involving Mr. Kidd. These measures include research to ensure that EKPC is using standard industry practice for its process of removing large felled trees from a line, as well as research on rigging limits, loading limits of the block, and how much weight a cross arm will hold, with such information to be disseminated to all crews. EKPC stated that it is reviewing the pertinent sections of its safety manual regarding this investigation, and has proposed a completion date of July 31, 2017, for any necessary revisions. EKPC also stated that it is developing a training program on rigging, a class to teach linemen pertinent fundamentals regarding elevation, slope, and span, and a Job Hazard Risk Assessment for use by EKPC crews in the field in conjunction with their Job Briefings during particularly hazardous or non-routine jobs.

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 EKPC 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
2. The formal hearing in this matter scheduled for Tuesday, July 11, 2017, is cancelled.
3. As a result of the April 7, 2016 incident, EKPC agrees to pay a civil penalty, pursuant to KRS 278.990, in the amount of \$10,000. EKPC further agrees to provide the Commission with a copy of its revised safety manual and Job Hazard Risk Assessment upon their completion and inform the Commission, in writing, when its proposed rigging training is complete.
4. EKPC shall pay the amount of \$10,000 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.
5. Upon payment of \$10,000 by EKPC, and the filing of EKPC's revised safety manual and Job Hazard Risk Assessment and confirmation of completion of rigging training, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

By the Commission

ENTERED
JUN 30 2017
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2017-00084

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2017-00084 DATED **JUN 30 2017**

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EAST KENTUCKY POWER)
COOPERATIVE, INC.)
_____)

ALLEGED FAILURE TO COMPLY)
WITH KRS 278.042)

CASE NO. 2017-00084

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated March 8, 2017, the Commission initiated this proceeding to determine whether East Kentucky Power Cooperative, Inc. ("EKPC") 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 and its own safety manual in connection with an accident on April 7, 2016 wherein Dustin Cody Kidd, EKPC Line Technician, sustained personal injuries.

On March 27, 2017, EKPC filed a response to the Commission's March 8, 2017 Order. Along with the response, EKPC 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 May 3, 2017. Discussions during the informal conference between EKPC 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. EKPC acknowledges that Mr. Kidd was injured on April 7, 2016, while attempting to repair a utility pole damaged by a fallen tree, which had been cut by EKPC's contractor, Asplundh Tree Company. Mr. Kidd was part of an EKPC crew that was attempting to lower the phase conductor to the ground instead of cutting the fallen tree off the line. Mr. Kidd sustained significant facial and wrist fractures when the block and hook, which were being used to lower the conductor in an attempt to remove the fallen tree off the utility line, came loose and struck Mr. Kidd in his face and wrist.

2. EKPC has filed with the Commission remedial measures that it has implemented to prevent further similar incidents. These measures include research to ensure EKPC is using standard industry practice for its process of removing large felled trees from a line; and research and collection of information on riggings limits, loading limits of the block and how much weight a cross arm will hold, which information would then be disseminated to all crews. EKPC is currently researching the pertinent sections of its safety manual regarding this investigation, and has proposed a completion date of July 31, 2017 for any necessary additions. EKPC has collected all hooks of the type involved in the subject accident and removed them from service, and is now utilizing EKPC's Safety Council and peer groups to standardize equipment used across service centers, and EKPC's safety department is now involved in the purchase of rigging equipment. EKPC is working with rigging training companies to develop a specific rigging/lifting course for its employees. Pilot members from each EKPC Service Center have completed this training and training for members of all service centers is proposed to be completed by September 30, 2017. EKPC has also enhanced its current rigging on-the-job training requirements in its Skills Based training, and had its engineers create

a class to teach linemen pertinent fundamentals regarding elevation, slope, and span and has proposed a completion date for this training of October 31, 2017. A Job Hazard Risk Assessment has also been created for use by EKPC crews in the field in conjunction with their Job Briefings during particularly hazardous or non-routine jobs, to better capture hazards and controls, and is proposed to be implemented by July 31, 2017.

3. EKPC agrees to pay a civil penalty, pursuant to KRS 278.990, in the amount of \$10,000.00. EKPC further agrees to provide the Commission with a copy of its revised safety manual and Job Hazard Risk Assessment upon their completion and inform the Commission, in writing, when its proposed rigging training is complete. The Commission's acceptance of this Stipulation will satisfy and resolve any and all claims against EKPC for any alleged violation of KRS Chapter 278 or for any penalty under KRS 278.990 arising out of the April 7, 2016 incident. The scope of this proceeding is limited by the Commission's March 8, 2017 Order as to whether EKPC should be assessed penalties under KRS 278.990 for alleged 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 by EKPC.

4. In the event that the Commission does not accept this Stipulation in its entirety, EKPC 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. The Stipulation shall not be construed as an admission by EKPC of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the March 8, 2017 Order, or otherwise used as an admission by either party.

proceeding or lawsuit arising out of the facts set forth in the March 8, 2017 Order, or otherwise used as an admission by either party.

5. This Stipulation is for use only in Commission Case No. 2017-00084, 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 EKPC's service, and EKPC shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Stipulation.

6. EKPC and Commission Staff agree that the foregoing Stipulation is reasonable for the purpose of resolving all issues in Commission Case No. 2017-00084, is in the public interest, and should be adopted in its entirety by the Commission. If so adopted by the Commission, EKPC 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 28th day of June, 2017.

East Kentucky Power Cooperative, Inc.

By: Don Mair

Title: EVP & COO

Staff of the Kentucky Public Service Commission

By: [Signature], Staff Attorney

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