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August 17, 2017

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Kenneth J. Gish, Jr.
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250 West Main Street, Suite 2300
Lexington, Kentucky 40507

Re: *Kentucky Power Company, Alleged Failure to Comply with KRS 278.042*
Case No. 2017-00196

DEMAND LETTER

Counsel:

By Order entered May 31, 2017, the Kentucky Public Service Commission (the "Commission") initiated the above-styled case to investigate the fatal injury of Tony Craig that occurred on July 9, 2015, and to examine the adequacy, safety, and reasonableness of the practices of Kentucky Power Company ("Kentucky Power") relating to the construction, installation and repair of electric facilities. Mr. Craig was employed by Kentucky Power's vegetation management contractor, Asplundh Tree Services, and was part of a crew trimming trees away from Kentucky Power's lines at the time of the accident.

Based on Commission Staff's Accident Investigation Report ("Staff Report"), which is attached to the May 31, 2017 Order, the Commission found that *prima facie* evidence exists that Kentucky Power failed to comply with KRS 278.042 and the 2012 edition of

the National Electrical Safety Code (“NESC”).¹ The Commission ordered Kentucky Power to file a response to the allegations contained in the Staff Report, and to appear before the Commission on September 12, 2017, and show cause why it should not be subject to the penalties prescribed in KRS 278.990(1). On June 30, 2017, Kentucky Power filed a response to the Commission’s May 31 2017 Order.

NESC Section 44, Rule 441(A)(1) provides that an employee shall not approach an energized conductor unless the employee is wearing protective equipment insulated for the voltage involved or the conductor is insulated from the employee. Based on the Staff Report and Kentucky Power’s response to the Commission’s May 31, 2017 Order, it is Commission Staff’s conclusion that Mr. Craig violated NESC Section 44, Rule 441(A)(1), when he brought a conductive object, a tree limb, within the minimum phase-to-ground approach distance of the energized conductor without wearing appropriate personal protective equipment. It is Commission Staff’s further conclusion that Mr. Craig acted with an indifference to the natural consequences of his conduct.

CIVIL PENALTY

KRS 278.990(1) provides that any utility that willfully violates any provision of KRS Chapter 278 or any regulation promulgated pursuant thereto is subject to a civil penalty of up to \$2,500 per violation. The statute further provides that each act, omission or failure of a person acting for a utility within the scope of his employment shall be deemed the act, omission or failure of the utility.

Based on the foregoing, it is Commission Staff’s recommendation that Kentucky Power be subject to a civil penalty in the amount of \$2,500. If Kentucky Power does not wish to contest the proposed civil penalty, Kentucky Power should mail or deliver a cashier’s check or money order made payable to the “**Kentucky State Treasurer**” in the amount of \$2,500, within 30 days of the date of this letter, to:

Kentucky Public Service Commission
211 Sower Blvd.
Frankfort, Kentucky, 40602

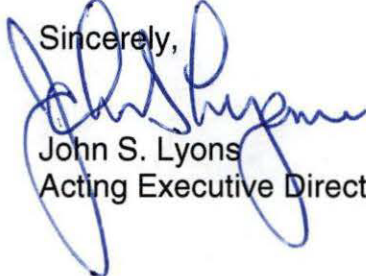
Payment of the proposed civil penalty will satisfy and resolve any and all claims against Kentucky Power for any violation of KRS Chapter 278 and for any penalty under KRS 278.990 arising out of the July 9, 2015 incident. Upon payment of the proposed civil penalty, Case No. 2017-00196 will be closed and removed from the Commission’s docket. Kentucky Power’s payment of the proposed civil penalty will not be considered an admission by Kentucky Power that it willfully violated KRS 278.042 or any other provision of KRS Chapter 278.

¹ Pursuant to KRS 278.042, the Commission enforces service adequacy and safety standards for electric utilities, as stated in the NESC, the Commission’s administrative regulations, and its orders.

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If Kentucky Power does not pay the proposed civil penalty within 30 days of the date of this letter, the Commission will proceed with the administrative hearing scheduled for September 12, 2017, at which Kentucky Power will have an opportunity to present evidence and show cause why it should not be subject to penalties in KRS 278.990(1).

Sincerely,



John S. Lyons
Acting Executive Director

JBP/ph

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