

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED  
MAY 17 2006  
PUBLIC SERVICE  
COMMISSION

In the Matter of:

KENTUCKY UTILITIES COMPANY )  
AND LOUISVILLE GAS AND )  
ELECTRIC COMPANY )

\_\_\_\_\_ )  
ALLEGED FAILURE TO COMPLY )  
WITH COMMISSION REGULATION )  
807 KAR 5:006, SECTION 26(2) )

CASE NO. 2004-00412

SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into on this 8<sup>th</sup> day of May, 2006, by and between KENTUCKY UTILITIES COMPANY ("KU") and LOUISVILLE GAS AND ELECTRIC COMPANY ("LG&E") (collectively "Parties") and the Staff of the Kentucky Public Service Commission ("Commission Staff").

WITNESSETH:

WHEREAS, although this case is styled "Kentucky Utilities Company and Louisville Gas and Electric Company," the facts involve solely KU, but the Settlement Agreement and all of its terms shall apply equally to the Parties; and

WHEREAS, KU is a utility engaged in the generation, transmission, and distribution of electricity to the public, subject to the jurisdiction of the Kentucky Public Service Commission ("PSC") pursuant to KRS Chapter 278; and

WHEREAS, on August 17, 2004 a KU line technician was dispatched to disconnect an outdoor overhead electric service from a residence in Lexington,

Kentucky, that was being totally remodeled. The lineman was unable to use his bucket truck to position himself for the work because a BFI dumpster 22' long x 7.5' high x 7.75' wide was blocking the driveway. John Grimes, the linesman, gained access to the overhead electric service by standing on the top edge of the dumpster. He fell from the edge into the dumpster and sustained a broken ankle. After investigation, Commission Staff found insufficient facts to support a *prima facie* case against KU for any violation of the National Electrical Safety Code ("NESC") or PSC regulations for safety-related violations; and

WHEREAS, on October 4, 2004, Commission Staff completed its investigation and filed its Incident Investigation Report; and

WHEREAS, pursuant to 807 KAR 5:006, Section 26(2), KU should have filed its written "Seven Day Report" of the incident with the Commission or before August 24, 2004. KU filed the report via telefax, not hard copy, on August 26, 2004, two days late; and

WHEREAS, a show cause proceeding was recommended by Commission Staff for the late report of violation; and

WHEREAS, to determine if any mitigating or remedial measures had been instituted by KU voluntarily and immediately after the August 17, 2004 incident and before any further PSC proceedings, the undersigned Commission Staff counsel telephoned Jim Dimas, Senior Corporate Attorney for KU, and

WHEREAS, on March 7, 2005, the PSC received a letter from KU's Manager of Regulatory Affairs, John Wolfram, detailing the corrective action taken on November 30,

2004 to prevent future late-report violations and explaining further refinements in the internal reporting process to assure compliance; and

WHEREAS, the facts gathered during Commission Staff's investigation of the accident do not constitute a violation of 807 KAR 5:006, Section 24, or the NESC, pursuant to 807 KAR 5:061, Section 3; and

WHEREAS, the Parties desire to enter into this Settlement Agreement to resolve the sole remaining issue of a violation of 807 KAR 5:006, Section 26(2), which provides that for any utility-related accident resulting in injury that requires overnight hospitalization, a written report shall be filed by the utility with the PSC within seven calendar days of the accident date; and

WHEREAS, the Parties and Commission Staff stipulate as follows:

1. There is not a violation of NESC, 807 KAR 5:061, Section 3, or 807 KAR 5:006, Section 24—Safety Program (LG&E Health and Safety Manual).
2. KU lineman John Grimes was involved in an accident while attempting to remove an overhead service at a residence in Lexington, Kentucky on August 17, 2004, and that he suffered a severe ankle injury that required hospitalization overnight.
3. KU had seven days to file with the PSC a written summary report regarding this accident. 807 KAR 5:006, Section 26(2).
4. Said summary accident report was filed on August 26, 2004, two days late. This is deemed a technical violation, not willful conduct.
5. The facts of the seven-day report filed by KU and the facts of Commission Staff's Incident Investigation Report are the same. There are no substantive factual differences between Commission Staff's and KU's reports.

6. KU independently initiated remedial measures to mitigate the outcome of this case and to plan policies and procedures for timely filing with the PSC required accident reports.

7. By letter dated March 7, 2005, John Wolfram described to Commission Staff the actions KU had taken to address the technical violation of 807 KAR 5:006, Section 26(2).

8. On November 30, 2004, Jim Dimas conducted a meeting with employees who have primary responsibility for telephonic reporting to the PSC and Commission Staff pursuant to said regulation. All employees responsible for making the initial telephone call to Commission Staff have been directed to also notify by e-mail or voice mail Mr. Dimas and a designated paralegal in the Law Department. The paralegal then sends a "task notice" to Mr. Dimas and the reporting employee to remind them of the due date of the written report to the PSC.

9. As an additional improvement, a monthly e-mail is sent to employees with responsibility for making telephonic reports to the PSC to remind them of the criteria for reporting events to the PSC and the timeframe for written reports, and stating that the written report must be coordinated through the Law Department. KU continues to closely monitor the process for success and improvement.

10. This Settlement Agreement is subject to the acceptance by and approval of the PSC. Following the execution of this Settlement Agreement, Commission Staff will recommend to the PSC that this Settlement Agreement be accepted and approved. If the PSC issues a final Order in which it accepts and approves this Settlement Agreement in its entirety, the Parties hereby waive their rights under KRS 278.400 to file

an application for rehearing and their rights under KRS 278.410 to file a complaint in the Franklin Circuit Court regarding such Order of the PSC.

11. If the PSC does not accept and approve this Settlement Agreement in its entirety, then:

a. This Settlement Agreement shall be null, void, and withdrawn by the Parties hereto from further consideration by the PSC and none of the signatories shall be bound by any of the provisions herein; and

b. This proceeding shall go forward and neither the terms of this Settlement Agreement nor any matter raised during settlement negotiations shall be binding on any of the signatories to this Settlement Agreement are to be construed against any of the signatories.

12. Neither the payment of a civil penalty, nor any other item of this Settlement Agreement, shall be construed as an admission by the Parties of a willful violation of any PSC regulation or NESC rule, nor shall it be construed as an admission by the Parties of any liability in any legal proceeding or lawsuit arising out of facts set forth in the Incident Investigation Report nor shall the PSC's acceptance of this Settlement Agreement be construed as a finding of willful violation of any PSC regulation or NESC rule.

13. This Settlement Agreement shall not be used for any purpose in any subsequent legal or administrative proceeding (other than a proceeding by the PSC to enforce the terms of this Settlement Agreement) and the Parties shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Settlement Agreement in any other legal or administrative proceeding.

14. The facts contained herein shall not be cited as precedent in any other proceeding except to enforce this Settlement Agreement.

15. The Parties and Commission Staff agree that this Settlement Agreement is reasonable, is in the public interest, and should be adopted in its entirety by the PSC. If so adopted by the PSC, the Parties agree to waive their rights to a formal hearing.

NOW THEREFORE, the Parties and Commission Staff agree that:

1. KU shall be assessed a civil penalty of \$500 for the technical violation of 807 KAR 5:006, Section 26(2).

2. Within ten days of the date of the PSC's Order approving this Settlement Agreement, the Parties shall pay \$500 to the Commonwealth of Kentucky in the form of a cashier's check payable to "Treasurer, Commonwealth of Kentucky," which shall be mailed or delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

3. This Settlement Agreement is subject to the acceptance of and approval by the PSC.

4. Nothing contained herein shall be construed as an admission of a violation of any statute or PSC regulation by the Parties, including any violation of the NESC, nor shall the PSC's acceptance of this Settlement Agreement be construed as a finding of such violation by the Parties. This case shall be terminated upon the issuance of the PSC's Order accepting this Settlement Agreement and the payment of the penalty herein described.

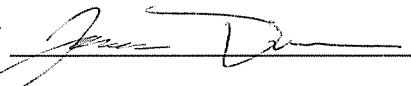
5. If the PSC fails to accept and approve this Settlement Agreement in its entirety, this proceeding shall go forward and each of the terms of the Settlement

Agreement or any matters raised during settlement negotiations or contained herein shall not be binding on any of the signatories.


6. If the Commission accepts and adopts this Settlement Agreement in its entirety and enters an Order in this proceeding to that effect, the Parties shall not apply for rehearing in this matter, nor bring any action for judicial review of that Order.

IN WITNESS THEREOF, the Parties and Commission Staff have executed this Settlement Agreement the day and year first above written by and through their duly authorized attorneys.

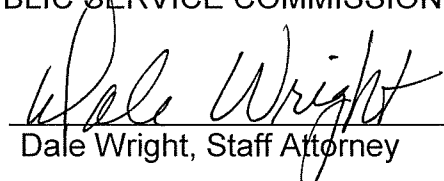
KENTUCKY UTILITIES COMPANY

BY   
TITLE SENIOR CORPORATE ATTORNEY

LOUISVILLE GAS AND ELECTRIC COMPANY

BY   
TITLE SENIOR CORPORATE ATTORNEY

COMMISSION STAFF  
PUBLIC SERVICE COMMISSION

BY   
Dale Wright, Staff Attorney