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September 27, 2010

RECEIVED

SEP 27 2010

PUBLIC SERVICE
COMMISSION

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

Re: Clark Energy Cooperative, Inc.
Case No. 2010-00334

Dear Mr. Derouen:

Enclosed for filing please find the original and 5 copies of Response of Clark Energy in the above case.


We request that an informal conference be scheduled and that the hearing be continued.

Your assistance in this matter is appreciated.

Very truly yours,

GRANT, ROSE & PUMPHREY

By: _____


Robert Lee Rose
Attorney for Clark Energy
Cooperative, Inc.

RLR:psr
Enclosures

pc/w/enclosures Mr. Paul Embs, Clark Energy
Mr. Walt Stephens, Clark Energy

RECEIVED

CLARK ENERGY COOPERATIVE, INC.

SEP 27 2010

PUBLIC SERVICE
COMMISSION

In the Matter of:

CLARK ENERGY COOPERATIVE, INC.)
)
_____)
ALLEGED FAILURE TO COMPLY WITH)
KRS 278.042)

CASE NO.
2010-00334

RESPONSE OF CLARK ENERGY COOPERATIVE, INC.

Per the Order of the Kentucky Public Service Commission (Commission) entered September 8, 2010, Clark Energy Cooperative, Inc. (Clark Energy) is responding to the allegations set forth in the Report and requests that an informal conference with the Commission staff be scheduled.

The incident in this case involves a burn injury sustained by Paul Perkins, an employee of Bluegrass Central Construction Company (Bluegrass), while performing work under contract on a 14.4 KV volt distribution line within the service territory of Clark Energy. As a result of the accident the Commission has alleged that Clark Energy violated five provisions of the National Electric Safety Code. Clark Energy's response to the alleged violations and further investigation into this matter are as follows:

Violation 1 - NESC Section 42, 420-C-4: Employees who work on or in the vicinity of energized lines shall consider all of the effects of their actions, taking into account their own safety as well as the safety of other employees on the job site, or on some other part of the affected electric system, the property of others, and the public in general.

Response 1 - Mr. Perkins, a Bluegrass employee, was the person in charge of the work site and responsible for his safety and the safety of other employees at the work site and any other employees working on the lines that would have been affected by his actions. Mr. Perkins acted as a individual when he violated safety rules. Mr. Perkins is an experienced lineman and foreman who had previously demonstrated his knowledge and applications of safety rules.

Violation 2 - NESC Section 42, 420-H: Employees shall use the personal protective equipment, the protective devices and the special tools provided for their work. Before starting work, these devices and tools shall be carefully inspected to make sure that they are in good condition.

Response 2 - Mr. Perkins was provided the personal protective devices as required by the NESC rule. Mr. Perkins had demonstrated to Bluegrass on the day of the accident that he knew how to apply and use the equipment and tools and was considered a qualified person. Further, Mr. Perkins was wearing rubber protective sleeves and there were rubber protective gloves hanging on the outside of the bucket from which he was working. The incident investigation revealed no reason why Mr. Perkins failed to use the personal protective equipment that was provided. Therefore, it is the position of Clark Energy that the incident was caused by errors and omissions of Mr. Perkins, however, Clark Energy does not deny that Mr. Perkins failed to wear protective gloves and use protective cover-up materials.

Violation 3 - NESC Section 44, Rule 441-A.3: Energized Conductors or Parts. Employees shall not approach or knowingly permit others to approach, any exposed ungrounded part normally energized except as permitted by this rule.

3. Precautions for approach - Voltages from 301V to 72.5kV

At Voltages from 301V to 72.5kV, employees shall be protected from phase-to-phase and phase-to-ground differences in voltage. See Table 441-1 for the minimum approach distances to live parts.

b. When the rubber glove method is employed, rubber insulating gloves, insulated for the maximum use voltage as listed in Table 442-6, shall be worn whenever employees are within reach or extended reach of the minimum approach distances listed in table 441-1, supplemented by one of the following two protective methods.

1. The employee shall wear rubber insulating sleeves, insulated for the maximum use voltage as listed in table 441-6, in addition to rubber gloves.

2. All exposed energized lines or parts, other than those temporarily exposed to perform work and maintained under positive control, located within maximum reach of the employee's work position, shall be covered with insulating protective equipment.

Response 3 - Clark Energy does not deny that Mr. Perkins failed to wear protective gloves and use protective cover-up materials. Clark Energy maintains that the protective equipment was made available to Mr. Perkins, who had previously demonstrated his knowledge and practice on how to use them.

Violation 4 - NESC Section 42, 421-A: Duties of a First Level Supervisor or Person in Charge. This individual shall: (1) Adopt such precautions as are within the individual's authority to prevent accidents. (2) See that the safety rules and operating procedures are observed by the employees under the direction of this individual.

Response 4 - Mr. Perkins was the First Level Supervisor for Bluegrass and was in charge of making sure that all safety rules and procedures were followed. Based on witness testimony, Mr. Perkins directed both of his employees away from the job site and then proceeded himself to violate safety rules allowing no opportunity for anyone to make or suggest corrections.

Violation 5 - NESC Section 44, 441-A: Employees shall not approach or knowingly permit others to approach, any exposed ungrounded part normally energized except as permitted by this rule.

A. Minimum Approach Distance to Live Parts

(1) General

Employees shall not approach or bring any conductive object within the minimum approach distance listed in Table 441-1 or Table 441-4 to exposed parts unless one of the following is met:

(a) The line or part is de-energized and grounded per rule 444D.

(b) The employee is insulated from the energized line or part. Electrical protective equipment insulated for the voltage involved, such as tools, gloves, rubber gloves, or rubber gloves with sleeves, shall be considered effective insulation for the employee from the energized part being worked on.

(c) The energized line or part is insulated from the employee and from any other line or part at a different voltage.

Response 5 - Clark Energy does not deny that Mr. Perkins failed to use the protective equipment provided to him by Bluegrass at the time of this incident.

The commonalities of the violations involve the lack of use of personal protective equipment and other insulating equipment such as rubber gloves and rubber covering materials while working within the minimum approach distance of energized or ungrounded lines. Clark Energy cannot deny that Mr. Perkins failed to use proper equipment or that he failed to operate in a safe manner at the time of the incident. However, through the investigation by Clark Energy and the Commission, it was found that cover-up materials were used on other structures worked by MR. Perkins on the day of the accident as well as previous days. Further, Mr. Perkins

actions which resulted in his burn injuries were of a solitary nature, unknown and uncontrollable by Clark Energy. Therefore, Clark Energy does not concur with any allegation that this incident was due to the lack of adequacy, safety and reasonableness of Clark Energy's practices related to the construction, installation, and repair of electric facilities.

Never the less, upon the investigation of this incident the staff and management of Clark Energy have implemented the following:

- Safety prequalification for contract bids.
- Contractors will submit employee qualifications prior to starting work.
- Clark Energy reserves the right to deny any contractor employee access and permission to work on the system.
- Clark Energy management will immediately begin conducting monthly audits of the safety practices of contractors.
- Contractor job briefings will be noted on work orders issued by Clark Energy.
- Contractors will be invited to participate in Clark Energy's annual safety training day.

WHEREFORE, Clark Energy respectfully submits these Responses to the Report contained in the Commission's Order entered herein on September 8, 2010 and requests that an informal conference be scheduled with the Commission staff.

This 27th day of September, 2010.

GRANT, ROSE & PUMPHREY
51 South Main Street
Winchester, Kentucky 40391
Telephone: (859) 744-6828

By: 
Robert L. Rose

ATTORNEYS FOR CLARK ENERGY