

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LICKING VALLEY RURAL ELECTRIC  
COOPERATIVE CORPORATION, INC.

\_\_\_\_\_  
ALLEGED FAILURE TO COMPLY WITH  
COMMISSION REGULATIONS 807 KAR  
5:006 AND 807 KAR 5:041

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)  
) CASE NO.  
) 92-549  
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O R D E R

On December 2, 1992, the Commission entered a Show Cause Order for the alleged violation by Licking Valley Rural Electric Cooperative Corporation, Inc. ("Licking Valley") of 807 KAR 5:041, Section 3, and 807 KAR 5:006, Section 24. The alleged violations arose from an incident on August 20, 1992 in which Craig Lykins, an employee of Licking Valley, was electrocuted while setting a pole.

Following the commencement of this proceeding, Licking Valley and Commission Staff entered into negotiations. On March 23, 1993, they executed Stipulations which are attached hereto and incorporated herein as Appendix A.

After reviewing the Stipulations and being otherwise sufficiently advised, the Commission finds that the Stipulations are in accordance with the law, do not violate any regulatory principle, result in a reasonable resolution of this case, and are in the public interest.

IT IS THEREFORE ORDERED that:

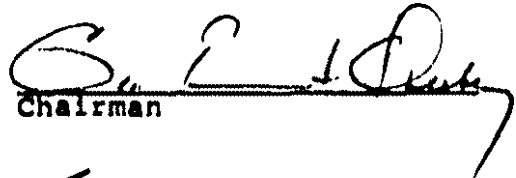
1. The Stipulations, appended hereto, are incorporated into this Order as if fully set forth herein.

2. The terms and conditions set forth in the Stipulations are adopted and approved.

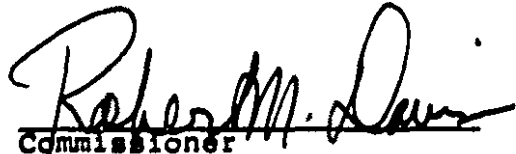
3. Licking Valley shall pay the agreed penalty of \$5,000 within 10 days of the date of this Order by certified check or money order made payable to Treasurer, Commonwealth of Kentucky. Said check or money order shall be mailed or delivered to the Office of General Counsel, Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky 40601.

Done at Frankfort, Kentucky, this 5th day of April, 1993.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director

APPENDIX A  
APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 92-549 DATED 4/5/93

COMMONWEALTH OF KENTUCKY

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In the Matter of:

LICKING VALLEY RURAL ELECTRIC COOPERATIVE CORPORATION, INC.	)	
	)	
_____	)	CASE NO. 92-549
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ALLEGED FAILURE TO COMPLY WITH COMMISSION REGULATIONS 807 KAR 5:006 AND 807 KAR 5:041	)	

STIPULATIONS

Licking Valley Rural Electric Cooperative Corporation, Inc., ("Licking Valley RECC") and the Staff of the Public Service Commission of Kentucky ("Commission Staff") stipulate the following:

1. Licking Valley RECC is corporation formed under the provisions of KRS Chapter 279, is engaged in the distribution of electricity to the public for compensation for light, heat, power and other uses, and is therefore a utility subject to the regulatory jurisdiction of the Public Service Commission of Kentucky ("Commission").
2. Commission Regulation 807 KAR 5:041, Section 3, requires an electric utility to maintain its plant and facilities in accordance with the standards of the National Electrical Safety Code (1990 Edition) ("NESC").
3. Commission Regulation 807 KAR 5:006, Section 24, as of August 20, 1992, required a utility to adopt and execute a safety program.

4. Prior to August 20, 1992, Licking Valley RECC's safety rules required that, when a pole is being set or removed between conductors energized above 600 volts, the conductors be de-energized or covered with protective devices and employees handling the butt of the pole wear rubber gloves.

5. NESC Section 42 (421A) directs a foreman or person in charge to see that safety rules and operating procedures are observed.

6. NESC Section 42 (420H) requires that employees use the personal protective equipment and devices provided for work.

7. Prior to August 20, 1992, Licking Valley RECC had instituted and adopted a safety program in compliance with 807 KAR 5:006, Section 24.

8. Licking Valley RECC had employed Clark Phipps since September 17, 1973. On August 20, 1992, Phipps was employed as a first class lineman.

9. Licking Valley RECC had employed Craig N. Lykins since June 3, 1991. On August 20, 1992, Lykins was employed as a laborer.

10. Both Clark Phipps and Craig N. Lykins participated in the safety program hereinabove referred to.

11. Craig Lykins was electrocuted while assisting a three member work crew of Licking Valley RECC in a project to set a pole to raise a 7200 volt single phase line. He

suffered the fatal electrical shock while guiding the pole when the boom cable attached to the pole came into contact with the energized line. At the time of the incident, Lykins was not wearing rubber gloves nor was the line de-energized or covered at the point of contact.

12. At the time of the incident, Clark Phipps was the person in charge of the crew in the process of setting the pole. The other members of the work crew were Craig N. Lykins and Densil Wheeler, another employee of Licking Valley RECC.

13. Lykins' failure to wear rubber gloves while near the energized conductor, to de-energize the conductor or cover it with a protective device are violations of the NESC and the safety rules of Licking Valley RECC.

14. At the time of the incident, Craig Lykins knew, or should have known of the line's condition and the requirements of the NESC and the safety rules of Licking Valley RECC.

15. At the time of the incident, Licking Valley RECC had provided to Craig Lykins the following safety equipment: rubber gloves, rubber sleeves, rubber safety boots, and hard hat. Also, available and in use were "guts" for covering the energized conductor. The line was not covered at the point of contact.

16. At the time of the incident, Craig N. Lykins was an employee of Licking Valley RECC and was acting within the

scope of his employment.

17. At the time of the incident, Licking Valley RECC owned the facilities in question.

18. At the time of the incident, Clark Phipps was the person in charge at the work site and was supervising Craig N. Lykins. Clark Phipps and Densil Wheeler were working in close proximity to Craig Lykins as he was assisting in the process of setting the pole.

19. NESC Section 42 (421A) required Clark Phipps to see that all safety rules and operating procedures were observed at the site by all employees under his direction and to adopt such precautions as were within his authority to prevent the accident in question.

20. At the time of the incident, Clark Phipps was a Licking Valley RECC employee and was acting within the scope of his employment.

21. At the time of the incident, Clark Phipps knew, or should have known of the line's condition, the activities of Craig Lykins and Densil Wheeler, and the requirements of Licking Valley RECC's safety rules and the requirements of the NESC.

22. The transcribed statements of Clark Phipps and Densil Wheeler, contained in the record, reflect the sequence of events surrounding the incident in question.

23. Licking Valley RECC waives its right to a hearing on the December 21, 1992 Show Cause Order, with the

Commission to decide the case on the stipulation and agreement.

24. Licking Valley RECC will not contest the Commission's December 21, 1992 Show Cause Order if the Commission approves this stipulation and the agreement reached between Licking Valley RECC and the Commission's Staff, that Licking Valley RECC will pay a civil penalty of \$2,500.00 for the alleged violation of 807 KAR 5:041, Section 3, and \$1,250 for each of the other two alleged violations of 807 KAR 5:006, Section 24, or a total of \$5,000.00 for the three alleged violations contained in the December 21, 1992 Show Cause Order, without admitting, or denying, any one or more of such allegations.

#### ISSUES REMAINING

1. Licking Valley RECC contends that it has no record of any work rule violations by Clark Phipps and Craig N. Lykins prior to August 20, 1992.

2. Licking Valley RECC contends that it did not "willfully" violate any Commission regulations. The incident was the result of employee errors, and not misconduct on the part of the utility.

3. Licking Valley RECC contends that, at the time of the incident, Clark Phipps, Craig Lykins and Densil Wheeler were the only employees who knew or should have known of the line's condition.

4. Commission Staff contends that as a result of

Craig N. Lykins' and Clark Phipps' failure, Licking Valley  
RECC is in violation of Commission Regulations 807 KAR  
5:006, Section 24, and 807 KAR 5:041, Section 3.

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
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BY: Thomas S. Miller  
Thomas S. Miller

COUNSEL FOR COMMISSION STAFF

ATTORNEY FOR LICKING VALLEY  
RURAL ELECTRIC COOPERATIVE  
CORPORATION

DATE: 3/23/93

DATE: 3-22-93

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