

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JACKSON PURCHASE ELECTRIC COOPERATIVE)
CORPORATION, INC.)
)
_____) CASE NO. 94-013
)
ALLEGED VIOLATION OF COMMISSION)
REGULATIONS 807 KAR 5:006 AND 807 KAR)
5:041)

O R D E R

After receiving an Electrical Utility Accident Investigation Report prepared by Commission Staff which alleged that Jackson Purchase Electric Cooperative Corporation ("JPECC") had failed to comply with Commission Regulations 807 KAR 5:006, Section 24, and 807 KAR 5:041, Section 3, the Commission ordered the utility to show cause why it should not be penalized for its alleged failures.

JPECC has responded to the Electrical Utility Accident Investigation Report, stipulated the facts in this matter, submitted a written brief, and waived its rights to any evidentiary hearing.

After reviewing the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. JPECC is a 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 purposes.

2. On August 16, 1993, Gregory Conyers was fatally injured while setting a new utility pole at 1475 Powers Road, Paducah, Kentucky. John A. Martin was also injured in this incident.

3. At the time of the incident, Conyers, Martin, Terry Dublin, and William McElya were setting an in-line pole in a single phase 7200-volt overhead line. Martin and Conyers were framing the new pole which was leaning against a derrick truck's front tire. McElya was operating the derrick truck and was digging the hole for the pole. Dublin was working near the auger of the derrick truck.

4. At the time of the incident, the 7200-volt line was not deenergized or covered with a protective device or spread.

5. The derrick truck's boom came into contact with the 7200-volt line and energized the truck. As a result, Martin and Conyers received strong electric shocks. Conyers fell to the ground. As he attempted to right himself, Conyers grabbed the derrick truck's rear step and was electrocuted.

6. At the time of the incident, Conyers, Dublin, Martin, and McElya were employees of JPECC and were acting within the scope of their employment.

7. At the time of the incident, McElya was in charge of the work crew.

8. At the time of the incident, no member of the work crew was wearing protective clothing or using protective equipment.

9. At the time of the incident, the derrick truck was not bonded to an effective ground.

10. At the time of the incident, none of the persons at the incident site considered the truck as energized.

11. At the time of the incident, JPECC owned the facilities in question.

12. National Electrical Safety Code (1990 Edition) ("NESC") Section 421A requires a first level supervisor or person in charge to adopt such precautions as are within his authority to prevent accidents and to see that the safety rules and operating procedures are observed.

13. NESC Section 422A.2 states: "Contact with trucks, or other equipment, which are not bonded to an effective ground, being used to set, move or remove poles in or in the vicinity of energized lines shall be avoided by employees standing on the ground or in contact with grounded objects unless employees are wearing suitable protective equipment."

14. NESC Section 420C5 and NESC Section 441A1 prohibit an employee from bringing any conductive object without a suitable insulating handle within certain distances of any exposed energized part unless the energized line or part is deenergized, or the employee is insulated from the energized line or part, or the energized line or part is insulated from the employee, or the employee is insulated from all conducting surfaces other than the one upon which the employee is working.

15. As of August 16, 1993, JPECC adopted a safety program in compliance with Commission Regulation 807 KAR 5:006, Section 24.

As part of this safety program, JPECC adopted the American Public Power Association Safety Manual (8th Edition) ("APPA").

16. APPA Rule 520 prohibits the operation of mechanical equipment within certain distances of any energized line or equipment unless that equipment is certified for work on the proper voltage or certain safety precautions are taken.

17. APPA Rule 519d requires conductors to be deenergized or covered with protective devices or spread, or the use of pole guards when setting utility poles between or near conductors energized above 600 volts.

18. APPA Rule 519d prohibits the attachment of ground wires on a utility pole higher than 10 feet above the ground when setting utility poles between or near conductors energized above 600 volts.

19. JPECC has employed McElya since January 27, 1970 in various capacities including apprentice lineman, journeyman lineman, and construction sub-foreman.

20. JPECC has employed Martin since May 7, 1984 in various capacities including groundman, apprentice lineman, and journeyman lineman.

21. JPECC has employed Dublin since October 29, 1990 in various capacities including groundman and apprentice lineman.

22. Prior to the incident, McElya, Martin, Dublin and Conyers participated in JPECC's safety program.

23. While attempting to set the pole, Conyers, Dublin, Martin, and McElya failed to comply with NESC Sections 422A2 and 420C5 and APPA Rules 519d and 520.

24. McElya failed to see that all safety and operating procedures were observed by those under his direction and thus failed to comply with NESC Section 421A.

25. Conyers, Dublin, Martin, and McElya knew and were familiar with the NESC and JPECC's work rules and the consequences of failing to comply with them.

26. Any utility which willfully violates any Commission regulation is subject to civil penalty. KRS 278.990(1). A willful violation may involve "a 'knowing' violation or 'knowing failure to comply.'" Oldham v. Kubinski, 185 N.E.2d 270, 280 (Ill. App. 1962). It may also include conduct which reflects an "indifference to . . . [its] natural consequences." Huddleston v. Hughes, Ky.App., 843 S.W.2d 901, 905 (1992).

27. Each act, omission, or failure by a person acting for or employed by a utility and acting within the scope of his employment is deemed to be the act, omission, or failure of the utility. KRS 278.990(1).

28. The failures of Conyers, Dublin, Martin, and McElya to comply with the NESC and JPECC's safety rules are deemed to be JPECC's failures.

29. Commission Regulation 807 KAR 5:041, Section 3, requires an electric utility to maintain and operate its plant and facilities in accordance with NESC standards.

30. Commission Regulation 807 KAR 5:006, Section 24, requires an electric utility to adopt and execute a safety program.

31. JPECC willfully failed to maintain and operate its plant and facilities in accordance with NESC standards.

32. JPECC willfully failed to execute its safety program.

33. JPECC willfully violated Commission Regulations 807 KAR 5:006, Section 24, and 807 KAR 5:041, Section 3, and should be assessed a total penalty of \$4,000 for these willful violations.


IT IS THEREFORE ORDERED that:

1. JPECC is assessed a total penalty of \$4,000 for its willful violations of 807 KAR 5:006, Section 24, and 807 KAR 5:041, Section 3.


2. JPECC shall pay the assessed penalty within 20 days of the date of this Order. Payment shall be made by certified check or money order made payable to "Treasurer, Commonwealth of Kentucky," and shall be mailed or delivered to Office of General Counsel, Public Service Commission of Kentucky, 730 Schenkel Lane, Post Office Box 615, Frankfort, Kentucky 40602-0615.

Done at Frankfort, Kentucky, this 9th day of May, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:



Executive Director