

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY POWER COMPANY)
d/b/a AMERICAN ELECTRIC POWER)
AND)
BELLSOUTH TELECOMMUNICATIONS, INC.) CASE NO. 96-037
_____)
ALLEGED FAILURE TO COMPLY WITH)
COMMISSION REGULATIONS)

O R D E R

On February 14, 1996, the Commission directed Kentucky Power Company, d/b/a American Electric Power ("AEP") to appear at a hearing to show cause why it should not be penalized pursuant to KRS 278.990(1) for its alleged violation of Administrative Regulation 807 KAR 5:041, Section 3. In its February Order, the Commission also directed BellSouth Telecommunications, Inc. ("BellSouth") to appear at the same hearing to show cause why it should not be penalized pursuant to KRS 278.990(1) for its alleged violations of Administrative Regulations 807 KAR 5:006, Section 26 and 807 KAR 5:061, Section 3.

Following the commencement of this proceeding, AEP, BellSouth and Commission Staff entered into negotiations to resolve all outstanding issues. On September 17, 1997, they executed a Settlement Agreement, which is appended hereto. In reviewing the Settlement Agreement, the Commission has considered, inter alia, the circumstances surrounding the incident that is the subject of this proceeding and AEP's and BellSouth's efforts to comply with the Commission's safety regulations.

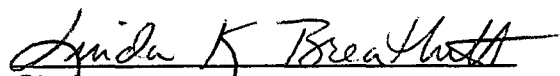
After reviewing the Settlement Agreement and being otherwise sufficiently advised, the Commission finds that it is in accordance with the law, does not violate any regulatory principle, results in a reasonable resolution of this case, and is in the public interest.


IT IS THEREFORE ORDERED that:

1. The Settlement Agreement is incorporated into this Order as if fully set forth herein.
2. The terms and conditions set forth in the Settlement Agreement are hereby adopted and approved.
3. Within 10 days of the date of this Order, AEP and BellSouth shall each pay to the Commonwealth of Kentucky the sum of Two Thousand Five Hundred Dollars (\$2,500). These payments shall be in the form of cashier's or certified checks 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.
4. This case is closed and shall be removed from the Commission's docket.

Done at Frankfort, Kentucky, this 6th day of October, 1997.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 96-037 DATED OCTOBER 6, 1997

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY POWER COMPANY)	
d/b/a AMERICAN ELECTRIC POWER)	
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AND)	
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BELLSOUTH TELECOMMUNICATIONS, INC.)	CASE NO. 96-037
)	
_____)	
)	
ALLEGED FAILURE TO COMPLY WITH)	
COMMISSION REGULATIONS)	

SETTLEMENT AGREEMENT

This Settlement Agreement, made and entered into this 17TH day of SEPTEMBER, 1997, between and among Kentucky Power Company d/b/a American Electric Power Co. ("AEP"), BellSouth Telecommunications, Inc. ("BellSouth"), and the Public Service Commission Staff ("Staff"):

W I T N E S S E T H:

THAT, WHEREAS, on May 22, 1995, an electric contact accident occurred on BellSouth telephone Pole #457 which injured an employee of Telemedia Company of Kentucky; and

WHEREAS, the Public Service Commission investigated the cause of the accident and determined that a probable violation of the National Electric Safety Code (NESC) had occurred since there appeared to be inadequate clearance between the BellSouth telephone line on Pole #457 and the AEP electric line, which crossed above the telephone line on a different structure (AEP's Pole #334); and

WHEREAS, the Public Service Commission on February 14, 1996, entered a Show Cause Order in Case No. 96-037 against AEP and BellSouth regarding possible violations of Public Service Commission regulations; namely, for AEP, the failure to properly maintain and to inspect their power lines to assure clearances from BellSouth telephone lines in accordance with the NESC as required by 807 KAR 5:041, Section 3; and, for BellSouth, the failure to properly maintain and to inspect their power lines to assure clearance from AEP's power lines in accordance with the NESC as required by 807 KAR 5:041, Section 3, and the failure to timely report the accident as is required by 807 KAR 5:061, Section 3; and

WHEREAS, on March 15, 1996, AEP and BellSouth appeared before the Kentucky Public Service Commission staff at an informal conference to discuss the allegations made in the Public Service Commission's Show Cause Order; and

WHEREAS, the parties hereto desire to enter into this Settlement Agreement to resolve the issues raised by the Public Service Commission's Show Cause Order, and have in furtherance thereof entered into the stipulations included herein and set out below;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. AEP is a Kentucky corporation doing business as an electric utility in the Commonwealth of Kentucky and is regulated by the Commission.

2. AEP installs, operates and maintains electric facilities throughout its service area within Kentucky. AEP provides service in Pike County, Kentucky.

3. BellSouth is a Georgia corporation doing business as a telephone utility in the Commonwealth of Kentucky and is regulated by the Commission.

4. BellSouth installs, operates and maintains telecommunications facilities throughout its service area within Kentucky. BellSouth provides service in Pike County, Kentucky.

5. AEP and BellSouth have a duty to comply with the provisions of Chapter 278 of the Kentucky Revised Statutes and Commission regulations promulgated thereunder.

6. Commission Regulation 807 KAR 5:041, Section 3, requires electric utilities to use the National Electrical Safety Code (1990 edition) ("NESC") as the standard of accepted good engineering practice for the construction and maintenance of plant and facilities.

7. Commission Regulation 807 KAR 5:061, Section 3, requires telephone utilities to use the NESC as the standard of accepted good engineering practice for the construction and maintenance of plant and facilities.

8. Commission Regulation 807 KAR 5:006, Section 26(2), requires an electric utility and a telephone utility to submit, within 7 days of a utility-related accident, a summary written report of any utility-related accident which results in a burn requiring medical treatment at a hospital or similar medical facility.

9. In 1956, BellSouth placed certain telephone facilities along US Highway 460 in Pike County, Kentucky. Among these facilities was Pole 457 on which a BellSouth communication cable was placed. At the

hearing, BellSouth would testify that at the time of construction, BellSouth's facilities were in compliance with the applicable NESC.

10. In 1976, AEP constructed a three-phase electric power line along US Highway 460 in Pike County, Kentucky, adjacent to and crossing BellSouth's line, which was constructed in 1956.

11. The AEP poles connect a three-phase conductor consisting of three separate lines: the field phase; the center phase; and the road phase.

12. BellSouth's Pole 457 has three lines: a television line, a top phone line or cable, and a bottom phone line or cable.

13. The placement of AEP's power lines and facilities in 1976 created the line-clearance violations that are the subject of this proceeding.

14. At the time of the incident, the Commission's measurements indicated that the clearance between the field phase to the BellSouth pole in question was 4 feet 5.5 inches less than the minimum clearance allowed by the NESC.

15. At the time of the incident, the Commission's measurements indicated that the clearance between AEP's field phase to BellSouth's television/CATV line was 3 feet 11 inches less than the minimum clearance allowed by the NESC.

16. At the time of the incident, the Commission's measurements indicated that the clearance between AEP's field phase to BellSouth's top cable was 3 feet 5 inches less than the minimum clearance allowed by the NESC.

17. At the time of the incident, the Commission's measurements indicated that the clearance between AEP's field phase to BellSouth's bottom cable was 2 feet 7 inches less than the minimum clearance allowed by the NESC.

18. The facilities that are the subject of this proceeding are aerial and are located in the Yellow Hill area of Pikeville, Kentucky.

19. Commission Regulation 807 KAR 5:006, Section 25(7)(a) requires telephone utilities to inspect aerial plants for electrical hazards, proper clearance for electric facilities and climbing safety every two (2) years.

20. Commission Regulation 807 KAR 5:006, Section 25(4)(d) requires electric utilities to inspect, at intervals not to exceed two (2) years, electric lines operating at less than 69,000 volts, including insulators, conductors and supporting facilities.

21. From 1976 to 1995, all of AEP's inspections of the facilities in question were visual and made "from the road."

22. From 1956 to 1995, all of BellSouth's inspections of the facilities in question were visual and all but one were made "from the road."

23. A "from-the-road" inspection is conducted from a vehicle.

24. In 1988, BellSouth visually inspected the facilities in question from the location of a pole that was being replaced on the same pole route as Pole 457. The pole that was being replaced was adjacent to Pole 457. It is BellSouth's position that the clearance on Pole 457 was not visible from the work area, approximately 400 feet away.

25. On May 16, 1995, in response to Telemedia Company of Kentucky's ("Telemedia") application for CATV pole attachments which included the pole in question, BellSouth conducted a visual field inspection of the facilities in question from the road.

26. Subsection A.1 of Section A5.11.7 of BellSouth's filed tariff states that "[w]hen an application for attachment to a pole and/or anchor is submitted by an attachee, a pre-authorization survey will be required to determine the adequacy of the existing pole and anchor to accommodate attachee's facilities. . . ."

27. Subsection A.2 of Section A5.11.7 of BellSouth's filed tariff states that the field inspection portion of the pre-authorization survey requires the visual inspection of existing poles and anchors.

28. On May 16, 1995, BellSouth conducted a "from-the-road" visual inspection of the facilities in question to determine the adequacy of the existing pole and anchor to accommodate Telemedia's facilities.

29. On May 22, 1995, Dick Clark, an employee of Scott Breyer Cable, suffered first and second degree burns when a lashing wire from the fiber optic cable that he was attaching to Pole 457 came into contact with a 7200 volt AEP overhead electric line. Mr. Clark was treated at Pikeville Methodist Hospital.

30. AEP and BellSouth corrected the alleged line-clearance violations in 1995.

31. On May 24, 1995, AEP filed its summary written report of the incident.

32. On March 15, 1996, BellSouth prepared and offered for filing purposes its summary written report of the incident.

33. Due to a breakdown in communication, BellSouth's Regulatory Staff was not aware that a reportable accident had occurred involving burn injuries to Mr. Clark.

34. These stipulations are proposed by AEP and BellSouth for purposes of reaching a settlement of Case 96-037 with the Kentucky Public Service Commission. In the event such a settlement agreement is not reached, these proposed stipulations shall be withdrawn.

35. BellSouth and AEP admit no liability as a result of these proposed stipulations and they are submitted only for the purpose of negotiating a settlement in Case No. 96-037 and may not be cited as precedent in any other matter or proceeding.

Now, therefore, Kentucky Power Company d/b/a American Electric Power and BellSouth Telecommunications, Inc., and the Commission Staff agree that:

1. Within ten days after entry of an order approving this Settlement Agreement, BellSouth shall pay to the Commonwealth of Kentucky a civil penalty of \$2,500. This payment shall be in the form of a check 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, P. O. Box 615, Frankfort, KY 40602.

2. Within ten days after entry of an order approving this Settlement Agreement, AEP shall pay to the Commonwealth of Kentucky a civil penalty of \$2,500. This payment shall be in the form of a check

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, P. O. Box 615, Frankfort, KY 40602.

3. BellSouth agrees to perform a "walk up" field inspection rather than a "from-the-road" visual inspection to check the route located along U.S. 460 from 1.3 miles east of Marrowbone to 2.6 miles west of U.S. 460 and KY 80, known locally as the Ferrels Creek Junction, and to check any routes which cannot be otherwise clearly visually inspected at least once every 24 months to insure that NESC clearances are maintained.

4. AEP agrees to perform a "walk up" field inspection rather than a "from-the-road" visual inspection to check the route located along U.S. 460 from 1.3 miles east of Marrowbone to 2.6 miles west of U.S. 460 and KY 80, known locally as the Ferrels Creek Junction, and to check any routes which cannot be otherwise clearly visually inspected at least once every 24 months to insure that NESC clearances are maintained.

5. This Settlement Agreement resolves all issues arising out of the May 22, 1995, incident.

6. This Agreement is subject to the acceptance of and approval of the Public Service Commission.

7. The parties stipulate and agree that there is no admission of liability by AEP or BellSouth and that this Settlement Agreement and the stipulations contained herein may not be cited in any other matter or proceeding except that they may be used in a proceeding

between the Public Service Commission and either BellSouth or AEP to enforce this settlement agreement. This cause shall be terminated upon entry of a Public Service Commission order accepting this Settlement Agreement in satisfaction of the show cause order of February 14, 1996.

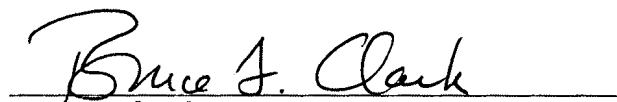
8. If the Public Service Commission fails to accept and approve this Settlement Agreement in its entirety, this proceeding shall go forward and each of the terms of the Settlement Agreement or any matters raised during settlement negotiations or contained herein shall not be binding on any of the signatories.

AGREED TO BY:


BellSouth Telecommunications, Inc.


Dorothy J. Chambers
Counsel for BellSouth

Kentucky Power Company
d/b/a American Electric Power


Bruce Clark
Counsel for AEP

Public Service Commission Staff


Denise Payne Wade
Staff Attorney