

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CLARK ENERGY COOPERATIVE	)	
_____	)	CASE NO. 2000-152
	)	
FAILURE TO COMPLY WITH	)	
COMMISSION REGULATION	)	
807 KAR 5:041, SECTION 3(1)	)	

O R D E R

By Order dated April 4, 2000, the Commission directed Clark Energy Cooperative, Inc. ("Clark") to appear at a hearing on April 28, 2000 to show cause why it should not be subject to the penalties provided for under KRS 278.990 for two probable violations of Commission regulation 807 KAR 5:041, Section 3(1), which requires the maintenance of utility facilities to be in accordance with the National Electrical Safety Code, 1990 Edition ("NESC"). More specifically, the probable violations include NESC Section 42, Rule 420.H, which requires employees to use personal protective equipment, and Rule 421.A, which requires the first-level supervisor or person in charge to adopt such precautions as are within the individual's authority to prevent accidents.

The probable violations arose from an October 27, 1999 accident on Wills-Rupard Road, Winchester, Kentucky. Three Clark employees were replacing two 35 Amp reclosers. One of the employees, while working in an aerial bucket, was removing the drain ground lead when he contacted the energized side of the recloser which had one lead still connected to the energized 7,200-volt primary line. The

employee was not wearing rubber gloves and he suffered burns to both hands and his neck.

At Clark's request, the hearing was held in abeyance and an informal conference was convened to provide an opportunity to discuss the operative facts surrounding this incident. Clark appeared at the conference and a discussion with the Commission Staff resulted in the filing of a Stipulation of Facts and Agreement ("Stipulation") on August 4, 2000.

The Stipulation, attached hereto as Appendix A and incorporated herein by reference, sets forth the relevant facts surrounding the accident, discusses the remedial measures taken by Clark since that time, and provides for Clark to pay a civil penalty in the amount of \$4,000 in full satisfaction of the probable violations.

In determining whether the terms of the Stipulation are in the public interest and are reasonable, the Commission has taken into consideration the comprehensive nature of the settlement and Clark's willingness to cooperate to achieve a speedy resolution of this proceeding. Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that the Stipulation is in accordance with the law and does not violate any regulatory principle. The Stipulation is a product of arm's-length negotiation among capable, knowledgeable parties, is in the public interest, and results in a reasonable resolution of all issues in this case.

IT IS THEREFORE ORDERED that:

1. The Stipulation is adopted and approved in its entirety as a complete resolution of all issues in this case.

2. Clark shall pay \$4,000 as a civil penalty within 30 days of the date of this Order by cashier's check or money order payable to the Kentucky State Treasurer and mailed or delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

Done at Frankfort, Kentucky, this 23<sup>rd</sup> day of August, 2000.

By the Commission

ATTEST:

  
Executive Director