

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AMERICAN ELECTRIC POWER)
_____))
ALLEGED FAILURE TO COMPLY WITH) CASE NO. 1999-137
ADMINISTRATIVE REGULATION 807 KAR 5:041,)
SECTION 3(1))

O R D E R

Kentucky Power Company, d/b/a American Electric Power (“AEP”) is an investor-owned electric utility that engages in the distribution of electricity to the public for compensation for lights, heat, power and other uses.

AEP is subject to the safety jurisdiction of the Commission, pursuant to KRS 278.010 and 278.040.

On April 21, 1999, the Commission entered an Order establishing this case and directing AEP to show cause why it should not be subject to the penalties of KRS 278.990 relating to a Utility Accident Investigation Report dated November 9, 1998.

AEP filed a Response on May 10, 1999 in which it responded to each allegation and requested an informal conference with Commission Staff. Since then, this case has been held in abeyance pending the court decision in Public Service Commission v. Jackson County Rural Electric Cooperative Corporation, Ky.App., 50 S.W.3d 764 (2000).

On September 27, 2001, an Order was issued scheduling this case for a formal hearing with a provision for an informal conference with Commission Staff. On November 9, 2001, an informal conference was held pursuant to the request of AEP. During the informal conference, AEP and Commission Staff entered into negotiations to resolve all outstanding issues in this proceeding. A Settlement Agreement was executed, appended hereto, for Commission approval.

In reviewing this Settlement Agreement, the Commission has considered, *inter alia*, the circumstances surrounding the alleged violations by its independent contractor and the ongoing efforts of AEP to comply with the Commission's safety regulations.

The Commission finds that the Settlement Agreement 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. No formal hearing shall be held in this case.
2. The Settlement Agreement, appended hereto, is incorporated into this Order as if fully set forth herein.
3. The terms and conditions set forth in the Settlement Agreement are adopted and approved.
4. Upon payment as set out in No. 2 of the Settlement Agreement, this case shall be removed from the Commission's docket.

Done at Frankfort, Kentucky, this 19th day of December, 2001.

By the Commission

ATTEST:


Executive Director

APPENDIX

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 1999-137 DATED December 19, 2001.

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY POWER COMPANY d/b/a)	
AMERICAN ELECTRIC POWER)	
)	CASE NO- 1999-137
ALLEGED FAILURE TO COMPLY WITH)	
ADMINISTRATIVE REGULATION 807 KAR 5:041,)	
SECTION 3(1))	

SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered this 14th day of December, 2001, by and between the STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY ("Commission Staff") and KENTUCKY POWER COMPANY d/b/a AMERICAN ELECTRIC POWER ("AEP"),

WITNESSETH:

WHEREAS, AEP is an investor owned electric utility which engages in the distribution of electricity to the public for compensation for light, heat, power and other uses; and,

WHEREAS, on April 21, 1999, the Public Service Commission entered an Order establishing this case and directing AEP to present evidence concerning the alleged violations of Administrative Regulation 807 KAR 5:041, Section 3 and to show cause why it should not be subject to the penalties of KRS 278.990 for the alleged NESC violations of its independent contractor relating to a Utility Accident Investigation Report dated November 9, 1998; and,

WHEREAS, on May 10, 1999, AEP, by counsel, filed its response to the Commission's Order referencing a pending court proceeding concerning the scope of the Commission's authority that would address the same issues herein;

WHEREAS, the courts of this Commonwealth having addressed this issue and ascertained the scope and nature of the Commission's authority in Public Service Commission v. Jackson County Rural Electric Cooperative Corporation, Ky. App., 50 S.W.3d 764 (2000);

WHEREAS, AEP and Commission Staff held an informal conference on November 9, 2001 in which all issues were discussed and AEP raised various defenses to subjecting it to the penalties of KRS 278.990 for the alleged NESC violations of its independent contractor; and

WHEREAS, AEP and Commission Staff desire to settle the issues raised by this proceeding and have entered into this Settlement Agreement through compromise to settle this proceeding,

NOW, THEREFORE, AEP and Commission Staff agree that:

1. The Utility Accident Investigation Report dated November 9, 1998 and the Commission Staff allegations contained in paragraphs 1-8 of the Commission's Order dated April 21, 1999 are factually correct.
2. Within 10 days after the entry of an Order approving this Settlement Agreement, AEP shall pay to the Commonwealth of Kentucky the sum of Five Thousand Two Hundred Fifty (\$5,250.00) Dollars. This payment shall be in the form of a cashier's or certified check made payable to "Treasurer, Commonwealth of Kentucky" and shall be mailed or delivered to: Office of General Counsel, Public Service Commission of Kentucky, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.
3. Nothing contained herein shall be construed as an admission of a willful violation of any federal or state statute or any provision of an administrative regulation; nor shall the Public Service Commission's acceptance of this agreement be construed as a finding of a willful violation of any statute or administrative regulation. This Settlement Agreement shall not be

used for any purpose in any subsequent legal or administrative proceeding (other than a proceeding by the Commission to enforce the terms of this Settlement Agreement), and AEP shall not be precluded or estopped from raising any issue, claim or defense therein by reason of the execution of this Settlement Agreement.

4. This Agreement is subject to the acceptance of and approval by the Public Service Commission. If this settlement is accepted by an Order of the Public Service Commission, the parties agree not to request rehearing or to file an appeal of that Order in the Franklin Circuit Court.

5. Commission Staff shall recommend to the Public Service Commission that this Settlement Agreement be accepted and approved.

6. If the Public Service Commission fails to accept and approve this Settlement Agreement in its entirety, this proceeding shall go forward and neither the terms of this Settlement Agreement nor any matters raised during settlement negotiations shall be binding on either signatory or be construed against either AEP or Commission Staff.

7. Upon approval of this Settlement Agreement by the Public Service Commission, AEP waives a formal hearing for all purposes and stipulates that an Order may be entered in this case incorporating this settlement.

IN WITNESS WHEREOF, AEP and Commission Staff have executed this Settlement Agreement the day and year first above written by and through their duly authorized representatives or attorneys.

STAFF OF PUBLIC SERVICE COMMISSION
OF KENTUCKY

BY:  _____

TITLE: Staff Attorney

KENTUCKY POWER COMPANY, dba
AMERICAN ELECTRIC POWER

BY: Errol K. Wagner

TITLE: Asst. Secretary