

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BIG SANDY RURAL ELECTRIC)	
COOPERATIVE CORPORATION)	
_____)	CASE NO.
)	1998-00033
ALLEGED FAILURE TO COMPLY WITH)	
ADMINISTRATIVE REGULATIONS 807 KAR)	
5:006, SECTION 26, AND 807 KAR 5:041,)	
SECTION 3)	

O R D E R

On January 27, 1998, the Commission directed Big Sandy Rural Electric Cooperative Corporation (Big Sandy RECC) 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 Commission regulations. On August 10, 1999, the Commission ordered this proceeding to be held in abeyance pending the outcome of judicial proceedings on the Commission s authority to assess a penalty against an electric utility for the failure of its contractors to operate and maintain the electric utility s facilities in accordance with Commission regulations.

On November 6, 2001, after the courts had ascertained the scope and nature of the Commission s authority,¹ the Commission entered an order directing that this case be resumed. Thereafter, Big Sandy RECC and Commission Staff entered into negotiations to resolve all outstanding issues in this proceeding. A settlement was reached and a Settlement Agreement was executed.

¹ Public Service Commission v. Jackson County Rural Electric Cooperative, Inc., Ky.App., 50 S.W.3d 764 (2000).

Upon consideration of the circumstances surrounding the November 5, 1996 incident and review of the Settlement Agreement, 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. 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 adopted and approved.
3. Within 10 days of the date of this Order, Big Sandy RECC shall pay to the Commonwealth of Kentucky the sum of Two Thousand Dollars (\$2,000). The check should be made payable to the Treasurer, Commonwealth of Kentucky and shall be mailed or delivered to the Office of General Counsel, Public Service Commission of Kentucky, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40601.
4. Upon payment of the assessed penalty as described above, the case shall be removed from the Commission's docket without further Order.

Done at Frankfort, Kentucky, this 25th day of June, 2002.

By the Commission

ATTEST:


Executive Director

COMMONWEALTH OF KENTUCKY
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SECTION 3)

CASE NO.
98-00033

SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into on this 14th day of June, 2002, between BIG SANDY RURAL ELECTRIC COOPERATIVE CORPORATION ("Big Sandy RECC") and the STAFF OF THE PUBLIC SERVICE COMMISSION ("Commission Staff").

WITNESSETH:

WHEREAS, Big Sandy RECC is an electric distribution cooperative corporation formed pursuant to KRS 279.010 to 279.220. It engages in the distribution of electricity to the public for compensation for lights, heat, power, and other uses, and is a utility subject to Commission jurisdiction. KRS 278.010; KRS 279.210; and

WHEREAS, on November 5, 1996 James Adams was injured while he was attempting to install a new 7620 volt electric Big Sandy RECC distribution line; and

WHEREAS, at the time of the incident, James Adams was an employee of Long Ridge LLC and was acting within the scope of his employment; and

WHEREAS, at the time of the incident Long Ridge LLC was performing construction and maintenance activities pursuant to a contract it had entered into with Big Sandy RECC on November 16, 1995; and

WHEREAS, Commission Staff investigated the incident and issued a Utility Accident Investigation Report ("Investigation Report") dated December 12, 1996; and

WHEREAS, in its Utility Accident Investigation Report, Commission Staff found that James Adams had violated certain provisions of the National Electric Safety Code (1990 edition ("NESC")); and

WHEREAS, on January 27, 1998, the Public Service Commission ("Commission") entered an order establishing this case and directing Big Sandy RECC to show cause why it should not be subject to the penalties of KRS 278.990(1) for its alleged violation; and

WHEREAS, on February 17, 1998, Big Sandy RECC, by counsel, filed its response to the Commission's Order of January 27, 1998; and

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

NOW, THEREFORE, Big Sandy RECC and Commission Staff agree that:

1. Within 10 days after entry of an Order approving this Settlement Agreement, Big Sandy RECC shall pay to the Commonwealth of Kentucky the sum of Two Thousand Dollars (\$2,000). This payment shall be in the form of a check made payable to "Treasurer, Commonwealth of Kentucky," and shall be mailed or delivered to

the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40601.

2. All distribution line extension construction contracts that Big Sandy RECC executes after the entry of this Settlement Agreement will require the attendance of contractor employees at Big Sandy RECC monthly safety meetings or the production of evidence that the contractor is providing equivalent safety training by qualified instructors to the contractor employees.

3. Big Sandy RECC shall permit, without charge, all contractors and their employees reasonable access to and use of its safety training facilities and safety training materials. Big Sandy RECC may impose reasonable conditions on the use of these facilities and materials.

4. Big Sandy RECC shall make available to its contractor employees, without charge, annual CPR and First Aid Certification training.

5. Nothing contained herein shall be construed as an admission of a willful violation of any statute, administrative regulation or any provision of the NESC nor shall the Commission's acceptance of this agreement be construed as a finding of a willful violation of any statute, administrative regulation or any provision of the NESC.T

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

7. Commission Staff shall recommend to the Commission that this Settlement Agreement be accepted and approved.

8. If the Commission fails to accept and approve this Settlement Agreement in its entirety, this proceeding shall go forward and neither the terms of the Settlement

Agreement nor any matters raised during settlement negotiations shall be binding on any of the signatories.

9. If the Commission accepts and adopts this Settlement Agreement in its entirety and enters an Order in this proceeding to that effect, Big Sandy RECC shall not apply for a rehearing in this matter nor bring legal action for judicial review of that Order.

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

BIG SANDY RURAL ELECTRIC
COOPERATIVE CORPORATION

BY: *Albert G. Frazier*
TITLE: *General Counsel*
DATE: *June 14, 2002*

PUBLIC SERVICE COMMISSION
OF KENTUCKY

BY: *Quita S. Mitchell*
TITLE: *Staff Attorney*
DATE: *6/10/02*