

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC COMPANY)
_____)) CASE NO. 2003-00029
)
ALLEGED FAILURE TO COMPLY WITH)
ADMINISTRATIVE REGULATION)
807 KAR 5:006, SECTION 3)

O R D E R

Louisville Gas and Electric Company (LG&E), a Kentucky corporation engaging in the distribution of electricity to the public for compensation for lights, heat, power, and other uses, is a utility subject to Commission jurisdiction. KRS 278.010(3)(a).

KRS 278.280(2) directs the Commission to prescribe rules and regulations for the performance of services by utilities. Pursuant to this statutory directive, the Commission promulgated 807 KAR 5:041, Section 3, which requires electric utilities to maintain their plant and facilities in accordance with the standards of the National Electrical Safety Code (1990 edition) (NESC).

NESC Section 42 establishes general rules for employees.¹ NESC Section 42, Rule 420-C-4, requires workers working on or in the vicinity of energized lines to safeguard themselves and others. Rule 420-D requires employees to consider electric

¹ KRS 278.990(1) authorizes the Commission to assess civil penalties against an electric utility for willful violations of the NESC by employees of the utilities independent contractor while maintaining utility plants and facilities. Public Service Commission v. Jackson County Rural Electric Cooperative, Inc., Ky., 50 S.W.3d 764 (2000).

supply equipment and lines energized unless positively known to be de-energized, and Rule 420-H requires employees to use the personal protective equipment and special tools provided for their work. NESC Section 421 establishes general operating routines. NESC Section 421-A-1 and 2 require supervisors, or those in charge, to adopt precautions to prevent accidents and to ensure that the precautions are observed by those under their direction.

Commission Staff has submitted to the Commission a Utility Accident Investigation Report, appended hereto, in which Commission Staff alleges that Bennie Hudson, an LG&E contract worker and foreman at the site, violated NESC Section 42, Rules 420-C-4, 420-D, 420-H and Section 421 Rules 421-A-1 and 2. Staff alleges that Mr. Hudson was not wearing the required protective equipment at the time of the incident and, as a result, suffered second and third degree burns when the overhead static wire he was removing contacted an energized three-phase 69 KV transmission line. Staff also alleges that Mr. Hudson, as foreman, failed to adopt precautions and ensure that those precautions were observed.

Based on its review of the Utility Accident Investigation Report and being otherwise sufficiently advised, the Commission finds that prima facie evidence exists that LG&E failed to comply with 807 KAR 5:041, Section 3.

The Commission, on its own motion, HEREBY ORDERS that:

1. LG&E shall appear before the Commission on July 15, 2003, at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, for the purpose of presenting evidence concerning the

alleged violations of 807 KAR 5:041, Section 3, and of showing cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for these alleged violations.

2. LG&E shall submit to the Commission within 20 days of the date of this Order a written response to the allegations contained in the Utility Accident Investigation Report.

3. The Utility Accident Investigation Report, a copy of which is appended hereto, is made part of the record of this proceeding.

4. Any motion requesting an informal conference with Commission Staff to consider any matter which would aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

Done at Frankfort, Kentucky, this 6th day of June, 2003.

By the Commission

ATTEST:


Executive Director

See 200300029_06062003apx.pdf for attachment