

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC COMPANY)	
_____)	CASE NO. 2004-00096
)	
ALLEGED FAILURE TO COMPLY WITH)	
COMMISSION REGULATION 807 KAR 5:041,)	
SECTION 3(1))	

O R D E R

Louisville Gas and Electric Company (“LG&E”) is a Kentucky corporation engaged in the generation, transmission, and 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 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(1), which requires the maintenance of utility facilities to be in accordance with the National Electrical Safety Code, 1990 Edition (“NESC”). NESC, Section 11, Rule 112C, requires that all floor openings without gratings or other adequate cover and raised platforms and walkways in excess of 300 mm (1 foot) in height shall be provided with railings.

Commission Staff submitted to the Commission an Electric Utility Personal Injury Incident Report (“Report”) dated December 16, 2003, attached hereto as Appendix A, which alleges that:

1. On October 31, 2003, Chris Morley suffered fatal injuries when he fell down a riser pipe while cleaning the header tunnel inside LG&E's Mill Creek Power Plant Unit 4 cooling tower ("Unit 4").

2. LG&E contracted with A&T Industrial Services of Crestwood, Kentucky ("A&T") to clean the distribution header pipes in the header tunnel of Unit 4.

3. At the time of the incident, Mr. Morley was an employee of A&T, was charged with cleaning the headers in Unit 4, and was acting within the scope of his employment.

4. In the center of the tunnel in Unit 4, there is a large flume or riser pipe. This riser pipe has a 96-inch diameter opening and a 45 to 50-foot drop.

5. At the time of the incident, the riser pipe was not grated and was not covered by railings as required by NESC Section 11, Rule 112C.

6. At the time of the incident, Mr. Morley was checking the header pipes near the riser pipe opening when he slipped and fell down the riser pipe.

7. LG&E violated NESC Section 11, Rule 112C when it failed to maintain the required railings around the riser pipe opening in Unit 4.

Based on its review of the 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.

IT IS THEREFORE ORDERED that:

1. 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 Report.

2. LG&E shall appear on July 22, 2004 at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1, of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky to present evidence concerning the alleged violations of 807 KAR 5:041, Section 3(1), and to show cause, if any it can, why it should not be subject to the penalties of KRS 278.990 for the alleged violation of the aforementioned Commission regulation.


3. The Report dated December 16, 2003 is hereby made a part of the record of this case.

4. Any request by LG&E for an informal conference with the Commission Staff shall be set forth in writing and filed with the Commission within 20 days of the date of this Order.

Done at Frankfort, Kentucky, this 2nd day of June, 2004.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2004-00096 DATED June 2, 2004

(See document named "200400096_06022004apx.pdf" for Appendix.)