

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)	
ADMINISTRATIVE REGULATION)	
807 KAR 5:041, SECTION 3(1))	

O R D E R

By Order dated June 2, 2004, the Commission initiated this investigation to determine whether Louisville Gas and Electric Company ("LG&E") should be subjected to the penalties prescribed in KRS 278.990 for an alleged violation of 807 KAR 5:041, Section 3. The alleged violation is set forth in a Utility Accident Investigation Report ("Report") which was prepared by Commission Staff and attached as an appendix to the June 2, 2004 Order.

LG&E was directed to file a response to the allegations set forth in the Report and to show cause, if it could, why penalties should not be imposed. LG&E timely filed its response and denied that it willfully committed any violation. It requested that the Commission dismiss the action or, in the alternative, that it suspend the scheduled hearing and schedule an informal conference with Commission Staff. The hearing was cancelled generally and an informal conference was conducted during which Commission Staff and representatives of LG&E entered into negotiations to resolve all outstanding issues in this proceeding. Agreement was reached on settlement, which

was subsequently reduced to writing and executed. Thereafter, LG&E and Commission Staff agreed to amend the Settlement Agreement and executed an Addendum to Settlement Agreement. A copy of each Agreement is appended hereto as Appendix A and Appendix B, respectively.

After reviewing the Settlement Agreement and the Addendum to Settlement Agreement, the Commission finds that the agreements are in accordance with law, do not violate any regulatory principle, result in a reasonable resolution of this case, and are in the public interest.

IT IS THEREFORE ORDERED that:

1. The Settlement Agreement and Addendum to Settlement Agreement, appended hereto, are incorporated into this Order as if fully set forth herein.

2. The terms and conditions set forth in the Settlement Agreement, as amended, and the Addendum to Settlement Agreement are adopted and approved.

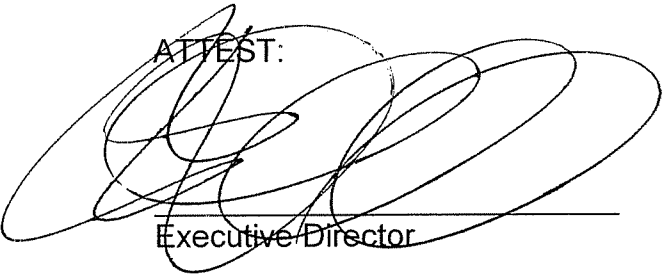
3. Within 10 days of the date of this Order, LG&E shall pay to the Commonwealth of Kentucky the sum of \$2,500. This payment shall be in the form of a cashier's check made payable to the "Treasurer, Commonwealth of Kentucky" and shall be mailed or delivered to the Office of General Counsel, Public Service Commission of Kentucky, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

4. Upon payment of the sum set forth in Ordering Paragraph 3, this case shall be closed and removed from the Commission's docket without further Order.

Done at Frankfort, Kentucky, this 19th day of September, 2005.

By the Commission

ATTEST:



Executive Director

Case No. 2004-00096

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2004-00096 DATED September 19, 2005.

RECEIVED

SEP 30 2004

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into this 20th day of September 2004, by and between Louisville Gas and Electric Company ("LG&E") and the Staff of the Kentucky Public Service Commission ("Commission Staff").

WITNESSETH:

WHEREAS, LG&E is a utility engaged in the generation, transmission and distribution of electricity to the public, subject to jurisdiction of the Kentucky Public Service Commission ("Commission") pursuant to KRS Chapter 278;

WHEREAS, on October 31, 2003, an incident occurred at LG&E's Mill Creek Power Plant Unit 4 cooling tower in Jefferson County, Kentucky (the "October 31, 2003 Incident");

WHEREAS, the Commission Staff investigated the October 31, 2003 Incident and submitted its Incident Investigation - Staff Report ("Report") on December 15, 2003;

WHEREAS, on June 2, 2004, the Commission entered an order initiating Case No. 2004-00096, styled *In the Matter of Louisville Gas and Electric Company Alleged Failure to Comply with Commission Regulation 807 KAR 5:041, Section 3(1)*, and ordered LG&E to show cause why it should not be subject to the penalties of KRS 278.990 for the alleged probable violation of the National Electrical Safety Code ("NESC") listed in the Report;

WHEREAS, on June 22, 2004, LG&E, by counsel, filed its response to the Commission's Order of June 2, 2004 denying LG&E had willfully violated the NESC as cited in the Report;

WHEREAS, on July 29, 2004, LG&E and Commission Staff held an informal conference at the offices of the Commission in which all issues were discussed; and,

WHEREAS, LG&E and Commission Staff, the signatories to this Settlement Agreement, negotiated a settlement through compromise resolving all issues surrounding the October 31, 2003 Incident.

NOW, THEREFORE, for and in consideration of the premises and conditions set forth herein, the signatories hereby agree as follows:

ARTICLE 1 Negotiated Settlement Amount

Within ten (10) days after the entry of an order approving this Settlement Agreement, LG&E shall pay to the Commonwealth of Kentucky the sum of one thousand five hundred dollars (\$1,500.00) in full satisfaction of any applicable possible civil fines associated with the outcome of this proceeding. This payment shall be in the form of a cashier's check made payable to the "Treasurer of the Commonwealth of Kentucky" and shall be mailed or delivered to the Office of General Counsel, Public Service Commission of Kentucky, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

ARTICLE 2 LG&E's Subsequent Remedial Changes

In future work inside the cooling tower of Mill Creek Unit 4, LG&E will require: (1) the installation of temporary covers over the riser openings (which covers have already been obtained by LG&E and are stored on-site at Mill Creek Unit 4) before work commences, and (2) that fall-protection equipment be used while the temporary covers are being installed.

ARTICLE 3 Approval of Settlement Agreement in its Entirety

This Settlement Agreement is subject to the acceptance of and approval by the Commission. Following the execution of this Settlement Agreement, the signatories shall file it with the Commission and shall act in good faith and use their best efforts to recommend to the Commission that this Settlement Agreement be accepted and approved. If the Commission issues a final order in which it accepts and approves this Settlement Agreement in its entirety, the

signatories hereby waive their rights under KRS 278.400 to file an application for rehearing and their rights under KRS 278.410 to file a complaint in the Franklin Circuit Court regarding such order of the Commission.

ARTICLE 4 No Approval of Settlement Agreement in its Entirety

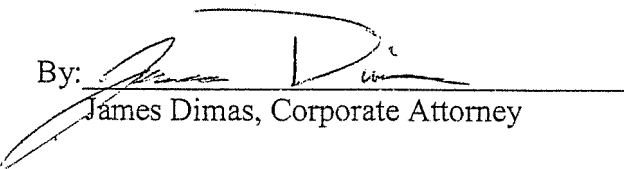
If the Commission does not accept and approve this Settlement Agreement in its entirety, then: (a) this Settlement Agreement shall be null, void and withdrawn by the signatories hereto from further consideration by the Commission and none of the signatories shall be bound by any of the provisions herein; and (b) this proceeding shall go forward and neither the terms of this Settlement Agreement nor any matters raised during the settlement negotiations shall be binding on any of the signatories to this Settlement Agreement or be construed against any of the signatories.

ARTICLE 5 No Admission of Violation of NESC Rules

Nothing contained herein shall be construed as an admission of a violation of any federal or state statute, or of any provision of an administrative regulation or the NESC; nor shall the Commission's acceptance of this agreement be construed as a finding of a violation of any statute, administrative regulation or the NESC. 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 LG&E shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Settlement Agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto affixed their signatures.

Louisville Gas and Electric Company

By: 
James Dimas, Corporate Attorney

Staff of the Kentucky Public Service
Commission

By: *Amita G. Mitchell*
Counsel for the Staff,
Kentucky Public Service Commission

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2004-00096 DATED September 19, 2005.

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))

ADDENDUM TO SETTLEMENT AGREEMENT

This ADDENDUM TO SETTLEMENT AGREEMENT is made and entered into this 17th day of June, 2005, by and between LOUISVILLE GAS AND ELECTRIC COMPANY ("LG&E") and the STAFF OF THE PUBLIC SERVICE COMMISSION ("Commission Staff").

WITNESSETH:

WHEREAS, LG&E and Commission Staff entered into a Settlement Agreement in this proceeding on September 20, 2004; and

WHEREAS, LG&E and Commission Staff desire to amend Article 1 of that Settlement Agreement.

NOW THEREFORE, LG&E and Commission Staff agree that:

1. Article 1 of the Settlement Agreement entered on September 20, 2004 by and between LG&E shall be amended to state as follows:

ARTICLE 1 Negotiated Settlement Amount

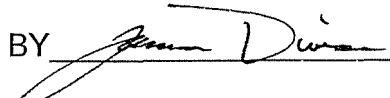
Within ten (10) days after the entry of an order approving this Settlement Agreement, LG&E shall pay to the Commonwealth of

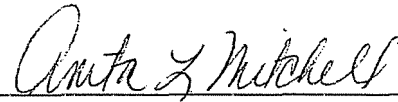
Kentucky the sum of two thousand five hundred dollars (\$2,500.00) in full satisfaction of any applicable possible civil fines associated with the outcome of this proceeding. This payment shall be in the form of a cashier's check made payable to the "Treasurer of the Commonwealth of Kentucky" and shall be mailed or delivered to the Office of General Counsel, Public Service Commission of Kentucky, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

2. All other provisions of the Settlement Agreement entered into on September 20, 2004 shall remain unchanged.

LOUISVILLE GAS AND ELECTRIC
COMPANY

STAFF OF THE PUBLIC SERVICE
COMMISSION OF KENTUCKY

BY 
TITLE SENIOR CORPORATE ATTORNEY
DATE June 20, 2005

BY 
TITLE Staff Attorney
DATE June 16, 2005